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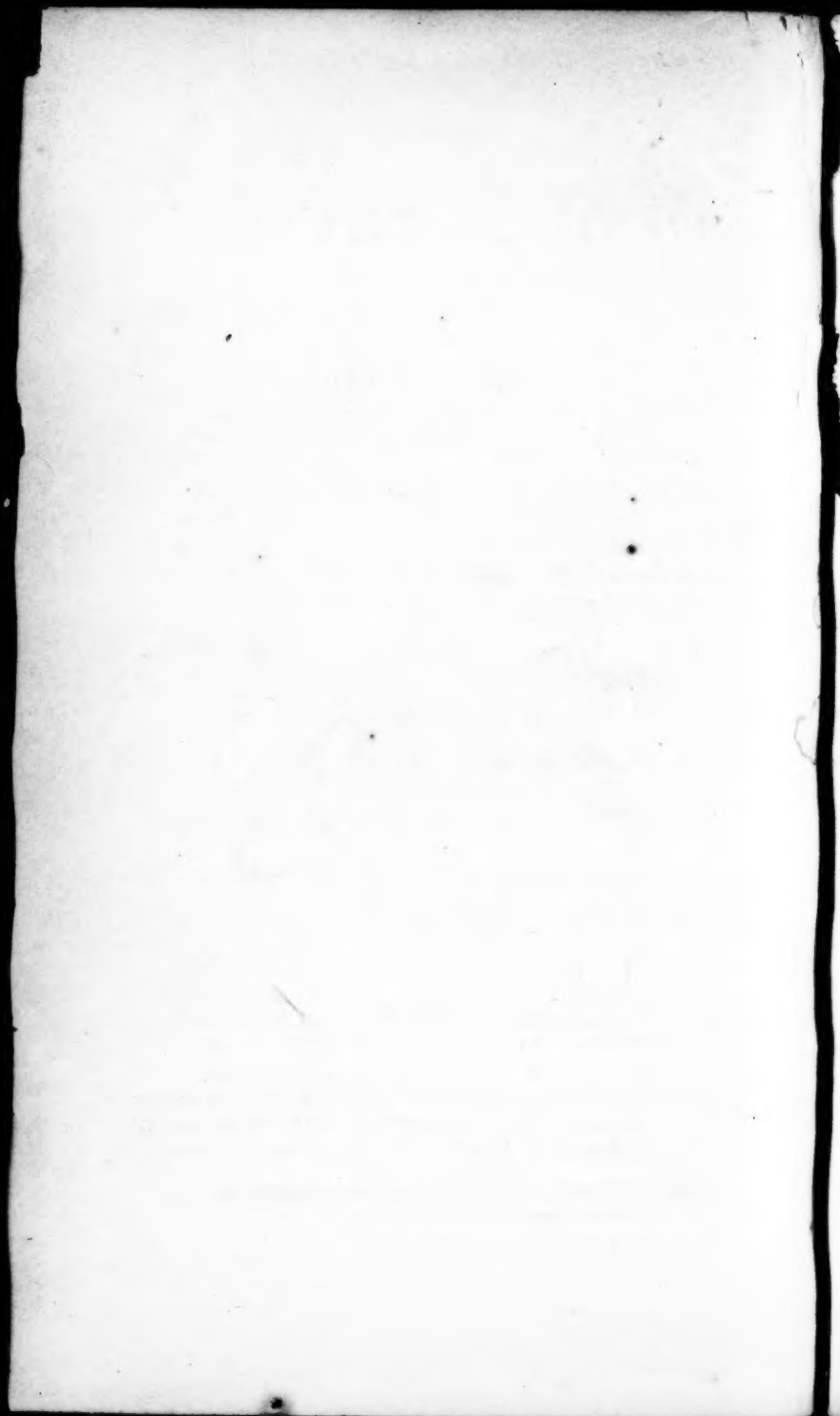
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NORWAY has of late years become a favourite resort of the English tourist, and bids fair to be the Switzerland of the North. Though her mountains are generally less peaked, her glaciers are little inferior in size to those of Chamounix, or of the Bernese Oberland, while her fields of perpetual snow are more extensive and far less explored. In the essential feature of waterfalls she is immeasurably superior to Switzerland or the Tyrol; the falls of the Handek, or the Giessbach, would be passed by almost unnoticed in a Norwegian "Dal." In Switzerland the valleys are widely scooped out, and the mountain sides sweep grandly down to the plains, while defiles are rarely to be met with, and absolute precipices seldom overhang the path of the traveller. In Norway the whole country consists, not of ridges separated by valleys, but of one vast mountain plateau, rising from three to five thousand feet above the level of the sea, and it is only occasionally that the extreme height of 8000 feet is attained by a few isolated peaks. But the snow-line in Norway is at 4500 feet, while in Switzerland double that altitude is required; and thus in the former country we

have vast levels of the mountain plateau covered with snow, either during the whole year, or only melting in the extreme heats of summer. The valleys of Norway are a succession of deep perpendicular cuts in this great elevated mountain range; they run for miles bounded by absolutely perpendicular cliffs, as if the opposite sides had been rent asunder by some tremendous force. These precipices are often from one to two or three thousand feet in height, and between their walls, a little strip of level ground, constantly encroached upon by the foaming river, is all that affords space for the traveller's progress. Abrupt as these cliffs are, whether on the sea-line in the long "fjords," or bounding the more inland valleys, they are rarely destitute of rich colouring to relieve their monotony of form. Mosses and lichens, flowers and green turf, are everywhere interspersed on the facing of stone; and in every spot where it can find an inch of soil, the graceful pine-tree mingles with the alder and hanging-birch, while the mellow northern light throws a magic glow over the whole. It is this perpetual twilight of the summer nights that so greatly enhances the charm of travel in these northern regions. Throughout all Norway there can hardly be said to be any hour of darkness in the twenty-four during the months of June and July; the sun goes down indeed, but the red light of day continues to gleam far away in the north, till at an early hour, it melts into the hues of sunrise. And now, that steam has opened out the route to the North Cape, the tourist may follow the sun till it sets no more, far away amid the tremendous jagged peaks of the Loffodens, those crests of sunken alps, more rugged and sharp than the very summits of the Alps themselves. In the extent and majesty of its coast scenery, Norway has altogether the advantage over Switzerland; her enormous fjords, running sometimes a hundred miles into the heart of the country, permit the traveller to reach by easy water conveyance, localities otherwise of most difficult access; while her inland lakes and rivers form another link in the chain of communication, which otherwise is but scantily maintained by the few highways that traverse this mountain land. With these attractions for the mere traveller, Norway presents still greater to the sportsman, and hence the youth of England hurry off annually to her rivers and her mountains to enjoy field sports unfettered by game

laws, or by any other restrictions. In their expectations, however, we regret to say, they are too often grievously disappointed. All the really good salmon-rivers have now been occupied and rented by wealthy Englishmen, by men possessed of sufficient funds to rent any river in Scotland or Ireland, but who must needs advance still further, and raise the market to a price unattainable by those of more slender means. Twenty years ago and more, for it was then that we first became acquainted with Norway, matters were in a very different state. Almost every river was then open to the salmon fisher, and the number of travellers in a whole season did not equal that which is now disembarked weekly from a Hull steamer at Christiania during the summer. Norway was then emphatically a primitive country, travellers were rare, and the angler was accompanied along the banks of the stream by a wondering population, admiring the marvellous manufacture of his flies and tackle, and almost incredulous that so slender a line could hold the mighty salmon in his native element. On the great lines of communication all is now changed, but there are still hundreds of streams in this vast country where good fishing may be had without cost, and many a secluded valley, where an Englishman is almost unknown.

Until the commencement of the present century Norway had hardly been visited at all by our countrymen. Edward Daniel Clarke was one of the first pioneers, but he had been preceded by two Germans, both men of science, Hausmann and Von Buch. To these succeeded others, who published accounts of their travels, but all seem to have followed one unvarying route, and to have described nearly the same objects. They landed at Christiania, drove northward up Gulbrandsdal to the Dovrefjeld, which our maps, even to the present day, persist in representing as a mountain ridge, instead of a vast elevated plateau, and then descended to Drontheim, returning by the mines of Røraas to Christiania. Two or three of the most adventurous, and among them we must name Clarke and Von Buch, undertook the perilous boat navigation along the whole of the western coast, from Drontheim to the North Cape. They laboured, however, under great disadvantages. Absolute ignorance of the manners and language of the country, confined them almost entirely to the main route, and prevented them

from obtaining that insight into the habits and traditions of the people, which falls only to the lot of those who can converse with the peasant and the farmer, and partake of their humble fare. In Norway there is now no aristocracy or resident landholder on a large scale. The social system is made up of peasant landholders, dwelling in seclusion on their own farms, and little disposed to observe, or to communicate the peculiarities of their country to strangers.

The first Englishman who may be said to have made himself practically acquainted with Norway, the first who deviated from the beaten track, was that most pleasant traveller, Henry Inglis, who about the year 1826 traversed the southern part of the country, alone and on foot, making his way through pathless wilds, sleeping in the shepherd's huts upon the mountains, and everywhere noting with an observant eye the primitive manners and customs of the isolated population.

He afterwards spent a winter on the Swedish frontier, near Kongsvinger, and has recounted, under the name of Derwent Conway, many curious tales and traditions, the truth of which, though at first disputed, has been confirmed by the observations of the Norwegians themselves. Of the wondrous scenery of the western coast he seems to have known little or nothing, and even of the geographical features of the parts immediately adjacent to those through which he passed, he appears to have obtained but very imperfect information. He spent two days within twenty-four hours' walk of the "Riukan foss," one of the grandest waterfalls in Norway, but all that he heard of it was a report of a gigantic waterfall, nine hundred feet high, somewhere among the mountains of the district, and this intelligence he was inclined to regard as fabulous. Probably at that time his acquaintance with the language was very slight, for about the same time the scientific Everest reached the Riukan, and explored, even in mid-winter, the still more wondrous cataract of the Voring, in the Hardanger. The tours of Breton, Milford, Elliott, and Barrow, were either confused or superficial, and it was not till within the last ten years that Norway and its scenery received full justice at the hands of Messrs. Biddulph and Forester. These two gentlemen traversed the southern districts of Norway from coast to coast in various directions, embodying their observations in an

octavo volume, beautifully illustrated, which has ever since been, and will continue to be, a standard work upon the country. Since the publication of this work, almost a library of books on Norway, scientific, sporting, and descriptive, has appeared to gratify the appetite of the reading public. Even ladies have taken the field, and have ventured alone amidst the dangers and discomforts of Norwegian travel. The "*Journal of the Unprotected Females in Norway*," is accurate in its description of manners and customs, as all ladies are when they write; but its tone is flippant and disagreeable, and the only feminine characteristic about the whole is the authoress's constant terror of wild beasts, from which indeed she was as safe in Norway as in traversing the Scottish Highlands. Very recently the tide of American travel has, singularly enough, turned in the direction of Norway. Until now American travellers have rather sought the ancient centres of civilization than the wild scenery of the forest and the mountain; their tastes do not lead them to be sportsmen, and in knowledge of languages they are as deficient as the English themselves. But Norway possesses for the Americans another peculiar fascination, they have come to look upon it as the ancient cradle of their race. The old Icelandic colonists, who migrated originally from the Norwegian fiords, found their way from the shores of Greenland to Labrador, nearly a thousand years ago, and from thence, as their records plainly testify, they coasted along the eastern side of America, perhaps as far as the peninsula of Florida. It is probable, too, that under the name of Viinland, they effected a temporary settlement in the northern part of the United States; and it is evidently flattering to the vanity of the present inhabitants of those districts to believe, that in their veins there possibly flows some drops of the old seaking's blood. Hence the American seeks Norway as his mother country; he studies with delight her ancient Sagas and records, too pleased to meet therein with a shadowy notice of his native land, some hundreds of years anterior to its second discovery by Columbus.

Two American travellers, Bayard Taylor and Charles Loring Brace, have published their impressions of Norway. Neither of these writers is altogether free from the usual faults of American authors, there is a certain inflation of style, and vulgarity of expression, too frequent

among our Transatlantic brethren, but both have been diligent observers, and tolerably well acquainted with the language of the country. We need not refer here to Mr. Laing's well-known statistical works on Norway and Sweden, but we would not altogether pass by the simple and beautiful Journal of Sir Charles Anderson, who revisited Norway in 1852. His modest little volume contains the notes written as each scene passed before his eyes, during a journey in Bergenstift, and exhibits a thorough appreciation of scenery, great truth of description, with a slightly Puseyite tendency to church hunting and mediæval antiquities.

In the department of Natural History much has been done by the Norwegians themselves, though the results of their researches, from being embodied in a hardly known language, have remained nearly sealed up to the rest of Europe. Forty years ago Boie of Kiel, a German ornithologist, spent a summer amid the savage scenery of the Loffodens, and published his tour and ornithological observations at Schleswig, in 1822. It is a work of much value, beside its purely scientific matter, but it is almost unknown in England.

Among the few English Naturalists who have recorded their experiences in Norway, Professor James Forbes, of Edinburgh, deserves the precedence. His work entitled "Norway and its Glaciers, 1853," is a fit pendant to his interesting researches among the ice-fields of Switzerland and Savoy. As an accurate description of some of the Norwegian glaciers, and for the beautiful delineations of scenery which accompany the text, it merits the first rank. Within the last few years a new field of Northern travel has been opened up by the establishment of steamboats along the Western coast of Norway to the extreme North, even to the town of Vadsoe, on the Varanger fiord, in the immediate vicinity of the Russian frontier. To Professor Forbes we owe the first vivid description of this extraordinary voyage, where the traveller gradually advances through the most wondrous scenery to the regions of constant daylight, and where, in the neighbourhood of Tromsøe and Hammerfest he can feast his eyes on the midnight sun, and study the manners of the wild Lapp and Finn population of that desolate country.

Of works on Sporting in Norway, we have several, and some of these contain much information beyond mere

records of rivers, or of wonderful successes with the rifle or the salmon rod. Belton's "Two Summers in Norway" first laid before the English public the marvels of the Namsen, while the Rev. Henry Newland's book on "Forest Life in Norway," is really pleasant light reading, free from exaggeration, and full of varied incident and graphic story.

Of German tourists in Norway, the best, we think, is Mügge.* The writer traversed Telemarken in company with the genial and learned Professor Munch of Christiania, and he was the first, or nearly the first, to undertake and describe the northern steamboat route to the North Cape. No German, and indeed no foreigner, seems to admire wild and savage scenery with the zest of an Englishman, but Mügge does not fall into the opposite extreme, and speak of "les belles horreurs," with the French. He evidently, however, found little cause for pleasurable emotion while contemplating the grand solitudes of the Hardanger, or the wild jagged peaks of the Loffodens. Still Norway and Finmark have left a lasting impression on his mind, and the stories of Norwegian life that he has since published, shew a thorough appreciation of the scenery, and great acquaintance with the peculiar customs of the country. Until a very recent period, hardly any of our English travellers have possessed the advantage of an acquaintance with the language and literature of Norway. The latter indeed is of very recent growth in the country, for though much had been done for years in the departments of natural science, history and antiquities had possessed but very few native students. Norwegian literature however, though young, is vigorous and healthful in its growth. The great work on the History of Norway by Professor Munch is fast approaching completion; Keyser and Lange have laboured well in the field of Ecclesiastical History; while the rude traditions and ballads, those invaluable records of a nation, have been saved from oblivion by the diligence of Asbjornsen and Moe, of Landstadt, and of Faye. The original and painstaking researches of Eilert Sundt have thrown much light on the mortality, and, we grieve to say it, also upon the immorality of Norway; while to the

* Skizzen aus dem Norden, 1844, 2 vols. 12mo.

same benevolent individual we owe a most curious history of the Gipsies in Norway, a work with all the romance but none of the untruthfulness of George Borrow. We must leave these native writers however to future consideration, and we return to an English author, whose works stand at the head of our list, and who deservedly holds a high place among Norwegian travellers. Mr. Metcalfe is a genial hearty writer, not indeed of the most refined description, but he is thoroughly conversant with the language, literature, and people of Norway. He is a thorough sportsman too; as much at home on the banks of a wild salmon stream, as among the ancient Sagas and traditions of the North. His delineations of peasant life, the only true and unadulterated existence to be met with in Norway, are faithful in the extreme, his spirits never flag, and he carries his reader along with him through scenes and scenery, as if he were seated at his side in the carriage, or in the boat. His books are thoroughly English and characteristic of the present day, not ponderous and deep, but racy, sparkling, and perhaps a trifle "faster" than we should expect from a grave and Reverend fellow of Lincoln College, Oxford. Hear how he speaks plainly in his first chapter.

"If you must sleep in a good hotel and sit down to table d'hôte every day, then avoid Norway. In the whole country, which has a coast some two thousand miles long, there are not half a dozen hotels out of the modern capital, Christiania. I once heard, by-the-bye, a sedate 'Head of a House' enquire whether the hotels in Lapland were comfortable. Alas! for his simplicity. In Scandinavia the beds are too short, the sheets are often soiled, and so brief, that you will find your limbs not unfrequently in disagreeable proximity to an undressed coverlet of calf, or reindeer skin. And then the fleas!

"But if you are a lover of wild and savage nature, whether as sketcher, botanist, geologist, or sportsman, especially the last, then go by all means. You will have a regular shooting coat life of it; no conventional bother, no fuss about external appearances, and you will meet with much that goes to the heart of an adventurous Englishman. Of course you will have to rough it, to live on the simplest fare; but you will soon rise superior to all those petty drawbacks. Think of catching big trouts and char, bigger than ever you saw in England, and nothing to pay for the sport. No subscription ticket to be purchased, no water-bailiff at your heels, or competing anglers to disturb the holes you are coming to."—(p. 5.)

Mr. Metcalfe's first recorded journey was by the well-known route over the Fillefjeld from Christiania to Bergen, and of course, like most young travellers, he took a carriole from the former place, though much of the journey is by water conveyance. He is much impressed by the grand scenery that commences on the Lille Miosen lake, and continues from thence almost uninterruptedly, until the traveller arrives at Bergen. On this road occurs the magnificent defile of the Nærodal, leading down to Gudvangen on the Sognefjord. Bayard Taylor, who has been over half the world, says that it is only equalled by one valley in depth and sublimity, viz., the pass of the Taurus in Asia, leading from Cappadocia into Cilicia. There is nothing in Switzerland or the Pyrenees to compare with it. We ourselves once entered it about eight p. m., in the month of August, when the beams of the sinking sun were glancing down the valley, and even reached the beryl-coloured river that flows through it. The cliffs on either side are from two to three thousand feet in height, while the valley is scarcely a thousand paces broad. On every side, the waters of the great mountain plateau above poured down in long white lines over the precipices, but though these were snow-fed streams, and consequently most swollen in hot dry weather, very few, if any, reached the bottom of the cliffs otherwise than as spray. At the head of the valley where the road is admirably engineered down a succession of terraces, there are two gigantic waterfalls of four hundred feet and more, and as the road winds from side to side on the descent, the traveller sees them alternately at every turn, till he reaches the bottom, when they appear in their full majesty. It is to be hoped that the wretched accommodations afforded by the Norwegian Inns will soon be improved, or not many "Heads of Houses" will be seen there.

Mr. Metcalfe has evidently no sympathy with the bastard mediævalism of the Puseyite school. We thoroughly believe that he would honestly confess, if the question were put to him, that the Church of England, since the era of Henry the Eighth, is actually a different church, and holds a different creed from that which preceded it. He is no Church hunter; a pointed arch or a decorated window does not attract him, and he even descends to use the epithet "Popish," when speaking of the Catholic faith. He tells us, for instance, that the

Church of Vossevangen, so beautifully situated on the lake of that name, is quite devoid of interest ; whereas it possesses an early pointed triplet window at the west end, a nave and chancel, and the base of a large west tower surmounted by a remarkable timber belfry and spire of above one hundred feet in height. Moreover in the stone vaulted vestry north of the chancel we saw a most beautiful silver-gilt chalice of mediæval workmanship. It was standing in an old cupboard, the doors of which were in part broken down. Vossevangen has however another point of interest for the Catholic. It was hither that Olaf Thorkelsen, the last Catholic Bishop of Bergen, retired, when deprived of his see, and it is said that he was hidden for some time in the vault beneath the high altar of this church, until, protected by his faithful adherents, he found a refuge at Dukstad, a mile or two from the town, where he died shortly after. Mr. Metcalfe says sneeringly of him, "The last Popish Bishop of Bergen, who fled to this place at the Reformation, is buried in this Church. He is said to have loved strong Hamburg ale, and to have been devoted more to gain than godliness."—(p. 70.)

Mr. Metcalfe borrows this story from Faye, but he neglects to add that that clergyman considers the Bishop a calumniated man. Our ideas of the Catholic bishops, clergy, and laity, of the times of Mary and Elizabeth, would not be very correct, if our only sources of their history were to be sought in "Fox's Book of Martyrs." No Catholic history of the dying struggles of the Church of Norway has ever been written, the documents that have come down to us are almost entirely from the hands of those hostile to the ancient faith. Enough however has been preserved to shew that here, as elsewhere, the people were strongly opposed to the change of religion. In the remote country districts many priests remained hidden for years after Catholicism had been formally abolished, and were protected and favoured by the people. It appears too that a certain correspondence was long maintained between the Catholics of Norway and those religious orders that had sprung up in Southern Europe ; for it is on record, that in Christian the Fourth's time, Laurentius Nicolai, a Jesuit priest, was for some time in Norway. Under the name of "Kloster Lasse," he resided long at the farm of Oppedal, near Kintservik in the Hardanger, and is said to have had many adherents there, even amongst the Lutheran

Clergy, though no Catholic Bishop had then been in Norway for fifty years. In Jondal, at the head of the Sør fiord, in the Hardanger, there is yet to be seen a tombstone before the church with sundry holes drilled therein, which the people say were formed by drops of a Lutheran minister's blood, whom the people slew because he wished to deprive them of their Matins, of their Ave Maria, of Holy Water, and of the Sign of the Cross. Forty years after the forcible introduction of the Reformation (?) into Bergen, the authorities found it necessary to remove certain pictures from the high altar in the cathedral there, because many old people persisted in praying before them. An affecting tale, founded we believe on fact, is told of an old priest returning, after long banishment, to die in a cave that overhangs one of the Norwegian lakes near Skien. The reader will find it in the first volume of Mr. Metcalfe's *Oxonian in Thelemarken* (p. 30), where he relates it as having been told him by a young lady he met on board of the steam boat. The young lady must have had a marvellously good memory, to have given not only the substance, but even the very words in which the story is first told, by a native writer, A. Munch, in his "*Billeder fra Nord og Syd*," 1856, p. 125. We fear this is not the only instance of Mr. Metcalfe appropriating the spoils of others. There is hardly one of his ballads, legends, or superstitions which has not appeared in print, though he would lead his readers to infer that he took them down from original sources, from oral recitation by the peasants themselves. We may dismiss the subject of the last struggles of the Catholic faith in Norway, with a quotation from a still living Lutheran clergyman of that country.

"When the Danish leaders commenced the work of Church reform, in the yet unprepared land of Norway, by imprisoning the Catholic bishops, driving the monks from their cloisters, and destroying the images of the saints, the people continued for a long time hostile to the new doctrines, and remained in heart and practice thoroughly Catholic. The Bailiff of Agdesiden was mortally wounded when he endeavoured to force the people to support their Lutheran pastors, and a special Royal Ordinance was required in Opslo and Hammer before the people could be induced to rebuild the ruined presbyteries."—Faye. *Norske Folke Sagn* (p. 175.)

From Bergen Mr. Metcalfe coasted by steamer northward to Molde, and then leaving the beaten route, he

penetrated into the interior of the country. We wish that we had space for some of his sporting experiences in this wild district, and especially for his account of a three days' fruitless expedition to the mountains in search of wild rein-deer.

For a Protestant monk, as he terms himself, Mr. Metcalfe is unusually discursive on female dress and beauty in Norway. He ascribes the pearly whiteness of the teeth of the Sundal damsels, to the acid of the brown bread and sour milk which forms so large a part of their food; and he says that at Tonset in Osterdalen, the peasants are constantly chewing a herb (?) called Harpix, which has the same purifying qualities. Had he consulted Ostgaard's pictures from Osterdalen (*Billeder fra Osterdalen*, 1852), he would have found that Harpix was a gum, an exudation from the pine tree, at first brittle and crumbling, but when chewed for a certain time it becomes soft and not unpleasant to the taste. No more acceptable present can be made to a peasant girl, than a well masticated piece of "Kaae" (Anglice, chew), prepared of course by the sound teeth of her lover!

From Drontheim our Author made his way by steam-boat beyond the arctic circle, and after passing the Loffodens, buried himself, in search of sport, amid the wild forests on the banks of the Mons and Bardu rivers, near Tromsøe.

Within the last few years the spirit of religious enquiry has awakened to life, in the hitherto quiet and respectable Norwegian church establishment. After a period of absolute torpor extending over nearly two hundred years, the voice of dissent has been heard again, and along with it the Catholic Church advances to regain her lost ground.

"These religious revivalists are known in Norway by various names *e.g.*, *Opwachter*, waked up people; *Lesere*, readers. But their most common name is *Haugianer*, after Hans Nielsen Hauge, the son of a peasant, who was born at Thunö, near Fredrikstad, in 1771. This man, who was a sort of John Wesley in his way, travelled the whole of Norway from South to North, arousing the people by his discourses and writings. Inward conversion, and the New Birth, and a corresponding life, were the topics he chiefly insisted upon. Ultimately, however, a great deal of erroneous and fanatic doctrine became mixed up in the teaching of himself and his followers. Contempt of the clergy and community of goods were prominently advanced. Excesses ensued in consequence. The

sons and daughters of rich peasants left their homes, and placed their property at his disposal.

"The clergy of that day, who were filled with rationalistic notions, and were besides not very partial to any deep religious views, soon retaliated, and got up an agitation against him. The government stepped in and he was arrested. A royal Commission was appointed to examine into the charges against him; pending which, for the space of nine years, Hauge was kept immured. He was then condemned to hard labour for two years, and all the costs."—(p. 100.)

Hauge died in 1824, but his followers have kept up the spirit of his doctrines in a modified form. Their opinions approach nearly to those of ultra Calvinism.

Recently the founder of another sect has appeared, in the person of Gustav Adolf Lammers, the Vicar of Skien. He commenced by inculcating stricter morality, and next declined to baptize children, and at length seceded from the established church altogether.

"A tract in my possession," says Mr. Metcalfe, "professes to be the Confession of Faith of this new Apostolic Church. In the preamble they state that they wish to make proper use of God's word and Sacraments. But as they don't see how they can do this in the State Church, in which the Word is not properly preached, nor the Sacraments duly administered, they have determined to leave it, and form a separate community in conformity with the Norwegian Dissenter Law of July 16, 1845. The baptism of infants they consider opposed to Holy Writ. All that the Bible teaches is to bring young children to Christ, with prayer and laying on of hands, and to baptize them when they can believe that Jesus Christ is the Son of God, and will promise to obey his gospel. Hence the elders lay hands upon young children, and at the same time read Mark x., verses 13-17. At a later period these children are baptized by immersion."—p. 26, vol. i.

These men object altogether to Confirmation as a religious rite, and hence they necessarily come in direct collision with the state clergy, for in Norway and Sweden no unconfirmed person can hold the meanest office, or even can be hired out as a servant. Confirmation in the Lutheran Church seems to be the portal of admission into social life and its privileges,—it is for the Norwegian peasant what the coming of age is to a minor in England. The Norwegian dissenters thus practically exclude themselves from all offices under government; for, though toleration of all religions is loudly proclaimed, all civil

privileges of holding office are denied to any but the members of the state-church.

A fresh source of interest has made its appearance from an unexpected quarter.

"Early in this century," says Mr. Metcalfe, "some Norwegians, who were carried to England as prisoners of war, were visited while in prison by English Quakers, who lent them 'Bartlett's Apology.' The arguments of the drab-coloured folk seem to have had such an effect on some of the prisoners that, on their return to Stavanger, they separated from the State Church of the country, and persecution was the consequence. Matters went on thus till 1846, when liberty of worship was granted to them by law. They are still, however, forced to serve in the army, and it was only this year that one of the community, who refused to do so, was sentenced to a solitary confinement of thirty days."—p. 75, vol. i.

In Norway the Quakers have assumed now a missionary character, and we have met them travelling through the country to hold "exhortations" through an interpreter, in divers localities.

Even in the far north, amid the wild Lapp population, the elements of religious frenzy are now at work, and have been already productive of terrible consequences.

"A Swedish priest, named Lestadius, the pastor of a parish near the Tana, was the author of the mischief. When he first appeared in this part of the country, he was an exceeding jovial person, fond of company and of good living. On a sudden he became a great ascetic, and moved about among the Fins, describing to them the horrible tortures that awaited them in another world, if they took much 'schnaps' in this. Naturally eloquent, he gained a great hold upon this simple people, and worked them up to the highest pitch of fanaticism. His daughter also preached to the same effect. Transformed into a set of virulent bigots, nothing but groaning and fiercely lamenting over their state would serve them. Community of goods was one of their theories, new religious observances were started, and everybody who did not hold with them was anathema maranatha. The priests of the establishment they gave up for lost; and to show their zeal in the cause of religion, they proceeded to acts of unwarrantable violence.

"One dark night in November 1853, a band of these zealots, male and female, to the number of thirty, led by one Aslac Jacobson Hette, a Fin of considerable acuteness, proceeded to Kautokeino, a village on the Tana. Two women of their tribe had been punished by the Lehnsmann, or government officer there, Bugge by name, for church brawling.

"One of the customs of the sect, in fact, was to interrupt the

church service by groaning and other noises. Vengeance for the affront was their object. Some days previously it had been whispered about that an outrage was intended, but unfortunately the authorities had taken no precaution against the attack. Armed with bludgeons the Fins proceeded first to the house of the Lehusman. In spite of determined resistance he was at length overpowered, and while a boy held the point of one of their long knives to his breast, Hette the ringleader, drove it in with his fist, in the same manner as they kill the rein-deer, the women helping in the murder. They next proceeded to the house of Ruthe the Handelsman, or merchant, whom they almost beat to death with their bludgeons; a Fin named Mons Somby, gave him the finishing stroke by knocking him on the head.

"By this time a number of friendly Fins, who had come to the rescue, endeavoured to drive off the wretches, but were repulsed, and the house of the unfortunate victims being set on fire, their bodies were consumed in the flames. Thirsting for more blood, these fanatics next attacked the house of the priest, Hroslav, whom they savagely beat about the head with their clubs. Luckily as he rose from his bed he threw around him his thick 'pesk' of rein-deer hide, drawing the cape over his head,—had it not been for this shield of proof the blows must have been fatal. More help arriving he was saved, while his wife, and the wife of the murdered merchant, who had fled to the vicarage, escaped uninjured."—*Metcalfe*, vol. ii. p. 32.

The fierce fanaticism of Knox and Calvin is still alive in these Northern regions. A general movement against the state-church, both from within and from without, is now manifesting itself throughout all Norway and Sweden.

Amidst all this disorder, this frenzy, the result of private Scripture interpretation, and of unsettled religious dogmas, we discern rising in the far north, the beautiful unchanging fabric of Christ's only Church. For two centuries at least Catholicism had been utterly extinct in Norway. Gradually a small congregation has gathered itself together in the rapidly increasing capital, Christiania, and now a handsome church, beautifully situated, ornaments the town, and within its walls mass is once more offered, and vespers are sung, as they were three centuries before. But little if any opposition was offered to their progress by the authorities, we believe they even presented to the church the ancient altar-slab of porphyry, disinterred from the ruined Cistercian convent on the

island of Hovedöen, but since that time matters have not gone on quite so smoothly.

Already in 1856, before the opening of the new church at Christiania, there were heard mutterings of a coming storm. The Protestant hatred and jealousy of Catholicism had slept, but were not dead; it was only requisite that our holy faith should once more show itself in these countries, to awaken the slumbers of fanatic zeal. During the past year (1858) the pastor of the Catholic Church at Christiania has been subjected to a heavy fine, for having dared to receive into the fold of the true faith a Norwegian lady, without duly apprising the government of her conversion! Routine and red tapeism are to be met with in semi-republican Norway to a greater extent than in old aristocratic England.

But while the Catholic Church is again vindicating her rights in Southern Norway, she has ventured on bolder and more decisive measures further north. A missionary college has been established beyond the Arctic circle, at Altengaard, one of the most beautiful spots in all Finmark. Here the missionaries, headed by an exiled Russian nobleman, Baron Djunkowsky, or Pere Etienne, as he is called in the priesthood, have purchased the magnificent estate of Altengaard, with its fields and meadows, its cattle and its timber. In Dr. Edward Daniel Clarke's travels there is a glowing description of this delightful spot, which forms so striking a contrast to the naked, barren country in its neighbourhood. On St. Olaf's day, in 1856, the name of the estate was formally changed to St. Olaf's-gaard, and forty of the principal inhabitants of the district were invited to a feast at the mission-house or Gaard. The memory of St. Olaf was drunk with honour, and the chief magistrate of the district expressed his delight at seeing once more in Norway the followers of the faith of which that king was so energetic a supporter. Mr. Brace gives the following account of his interview with the members of the mission:—

"We stopped again at Alten on our way back, and as we lay at anchor, the Baron Djunkowsky, or Pere Etienne, the head of the Catholic mission, came on board. He was a small, dark, quick man, with Russian features. His tact and readiness in the twenty minutes which he spent on the deck of the steamer, impressed you at once as a person of marked ability. Each person he addressed in his

own language, (I heard him speak five languages in that time,) and to each he spoke just what was most likely to be in accordance with his habits of thought. To me he said, after a few words, 'We are attempting here, Sir, just what you in America have so nobly solved, the question of toleration of all sects under the law. It is the question of liberty.'—p. 79.

On another occasion, at Alten, Mr. Brace had a conversation with another member of the mission.

"As we lay at anchor, a young gentleman, an Icelander, came on board from the Catholic mission, recently established in this neighbourhood. We had a long conversation together, in which I enquired of the mission and its objects. It was commenced, he stated, by a Russian gentleman, who had lost his estates in Russia from his conversion to the Catholic faith—the Baron Djunkowsky, or Pere Etienne, as he is called now.

"The mission consists of seven priests, two French, and three German, besides himself. They have a chapel, and have prepared a catechism, as well as a kind of ascetical work. (These works they print at their own press at the Mission.) A seminary and college will be opened later. The great question yet is, whether they are a legal community, (later information shows that the Mission has been legalized). It is truly a question of liberty in religion, said he, but we are obliged to present it as a question of education. At present we are only an educational establishment, and there is no law in Norway against schools by foreigners.

"I had some very free conversation with him as to his reasons for joining the Jesuit Mission. I know, he said in English, I leave the faith of my fathers, though not of the ancient Icelandic folk; but to me, at this time, the Church Catholic seems the only democratic Church. We are seeking to carry the cross among the poor Finns, and these rich Lutheran pastors say, 'No! you must pay for our salaries, you must bring in the tenths, you must keep up the State-church.'

"Do you see how these Norwegians avoid me? I am a wolf, because I am become a Catholique. They say, See! he is a Jesuit. He wants an *auto da fé* here!

"I asked him about the Finns and Lapps, whom they were trying to convert. He gave a better account of them than I had heard from the Norwegians. A simple, serious folk, he said, who could not leave their nomade life, but who might be much improved. Not especially stupid or inferior, and very grateful for kindness. He thought they were much neglected, and sometimes oppressed by the Norwegians."—p. 59.

We will conclude these notices of the interesting Alten mission with a scene sketched in 1857, by the graphic pen of Bayard Taylor.

"At Altengaard the Catholics have established a mission, ostentatious VOL. XLVI.—No. XCI."

sibly a missionary boarding house, for the purpose of acclimating active apostles; but the people, who regard it with the greatest suspicion and distrust, suspect that the ultimate object is the overthrow of their inherited, (!) venerated, and deeply-rooted Lutheran faith. The Catholic *bishop* came on board at Bosekop, and Mr. Gay, who had known him in Paris, at once entered into conversation with him. A short time afterwards my attention was drawn to the spot where they stood by loud and angry exclamations. Two of our Norwegian savans stood before the bishop, and one of them, with a face white with rage, was furiously vociferating, 'It is not true, it is not true, Norway is a free country!' 'In this respect it is not free,' answered the bishop, with more coolness than I thought he could have shown under such circumstances. 'You know very well that no one can hold office except those who belong to your State-church, neither a Catholic, nor a Methodist, nor a Quaker; whereas in France, as I have said, a Protestant may even become a minister of the government.' 'But we do not believe in the Catholic faith, we will have nothing to do with it,' screamed the Norwegian. 'We are not discussing our creeds,' answered the bishop. 'I say that though Norway is a free country, politically, it does not secure equal rights to all its citizens, and so far as the toleration of religious beliefs is concerned, it is behind most other countries in Europe.' He thereupon retreated to the cabin, for a crowd had gathered about the disputants, and the deck passengers, pressing aft, seemed more than usually excited by what was going on. The Norwegian, shaking with fury, hissed through his set teeth: 'How dare he come here to insult our national feeling!' Yes, but every word was true; and the scene was only another illustration of the intense vanity of the Norwegians in regard to their country. Woe to the man who says a word against Norway, though he says nothing but what everybody knows to be true! So long as you praise everything, scenery, people, climate, institutions and customs, or keep silent where you cannot praise, you have the most genial conversation,—but drop a word of honest dissent or censure, and you will see how quickly everyone draws back into his shell."—p. 260.

We would gladly in our notices of the works before us, have touched more fully on the scenery, manners, and institutions of Norway. We would, if we had consulted our own inclination, have given long extracts from stirring sporting scenes, or have described the merry marriage customs which have not yet died out in this remote corner of Europe. What, however, we have laid before our readers will not, we trust, be unacceptable, especially to those who, with ourselves cherish the hope, that the glories of the old Scandinavian Church may yet be revived, and that we have been permitted to see the commencement of this stretching out of God's hand towards the North.

ART. II.—1. *The Tablet*, October 30 and December 3, 1858.

2. *The Weekly Register*, October 30, 1858.

3. *The Union*, October 29, 1858.

4. *The Jurist*, October 30, November 12 and 26, 1858.

5. *The Law Journal* for 1857.

SEVERAL cases having occurred in which the English or Irish Courts, have directed that the children of Roman Catholics shall be brought up as Protestants, there was a natural desire expressed among Roman Catholics for some explanation of the principles on which the Courts acted; and there arising at the same time a great clamour respecting the Mortara Case, which was determined by the Roman Courts on similar general principles, it became necessary to enter into some consideration of the mutual connection between the laws of Rome and England. It is unfortunate that subjects of this nature are so often made themes for mere sectarian vituperation and anti-catholic clamour. There are persons in this country who seem to lie in wait for some topic on which to raise a "cry" against Rome. It seems as though it were their sole business.

Mr. Disraeli, in his *Coningsby*, makes his Tadpoles and Tapers enlarge on the importance of a "cry," and the enemies of the Church in every age have been well aware of it. It has formed a main portion of their tactics in this country, ever since, aye, long before the time of Lord Shaftesbury. The Irish massacre, or the Titus Oates "Plot," each in its turn answered the object of exciting popular feeling against Popery; and a similar policy has in our own time resorted to similar means. The "cry" a few years ago was "Papal aggression." Later still it was the Madiai. The other day it was the case of the Mortara. This was a good cry;—a child taken away by the Inquisition! A good cry—for it was not only English but European. It was a cry raised all over Europe; it was echoed and re-echoed, and was even represented to have been taken up by every European government, even by every Catholic government, except Austria. It was pretended that almost every European government had remonstrated with the Pope, and protested against his conduct in the case. This was found first to be an exaggeration, and then a pure invention. It

turns out, on the contrary, according to the latest accounts, that no European government had remonstrated with the Pope, unless that of France. It may possibly turn out after all that even this is a falsehood, and that no government has presumed to remonstrate, or to participate in the "cry," except, perhaps, our own. The British government has been moved to do so. Certain societies which exist only for the purpose of getting up these periodical cries against Rome, have vehemently incited it to do so, and have eagerly availed themselves of the occasion to take up their parable "against Babylon." And strange to say these were the very same people who moved heaven and earth, or at least the Court of Chancery, to take little Alice Race from her mother, and who were at the very same time in Ireland busily engaged in moving the Irish Court of Chancery to take the little Murphys from their paternal guardians.

There is no consistency in bigotry; and it has neither conscience nor memory; else one would have thought that the recollection of these recent acts of their own might have deterred them from very shame, from raising a "cry" against the Holy Father on the subject of infant guardianship. But no! bigotry is blind; and while Lord Chancellor Napier was preparing his judgment on the case of the Murphys, these people took up, and loudly re-echoed the "cry" of the false "liberals" of Europe about the Mortara case. Too blind to perceive that if that judgment, and the judgments of our courts in other similar cases could be justified, it could only be upon the ground of a professed application of the very principle on which the Holy Father had acted.

Ignorance and bigotry generally go together; at least taking the most charitable view of bigotry, that it does not arise from want of charity. And not one in ten thousand of those who joined in the senseless "cry" against the Holy Father upon the Mortara case, had the slightest idea of the principles upon which our Courts of Chancery have acted, and constantly act in cases involving similar principles. The laws of Europe are, for the most part, based upon the Roman law. By which we mean not, of course, the law of old Pagan Rome, but the Roman law as it was modified by edicts of the early Christian emperors, from Constantine to Justinian; as it was ultimately moulded and adapted to the principles of Christianity

under the auspices of the Roman Church. Those edicts protected the baptized children of Jews from their parents ; and forbade them to have Christian servants, or to retain any who desired to be Christians. And the whole law was moulded in conformity with Christianity ; the civil was made to blend with the canon law, the *patria potestas* was made to bend to the higher obligations of religion, and the state assumed the lofty function of guardian of all its Christian children. This was the Roman law ; the noblest work of the declining empire, its grandest legacy to the Christian world. And it was clung to with grateful admiration by all the nations who had received the rich treasures of civilization and religion from Rome ; and, by the Briton and the Frank, by the Saxon and the Goth, was made the basis of their Christian law. It could, indeed, scarcely have been otherwise, since these various tribes, barbarian when conquered, could derive civilized law only from their conquerors, the then masters of the world. And the grandeur of the Roman Empire, even in the ages of its decline and decay, impressed the savage tribes whom it subjugated with wonder, and an admiration which long survived its power. Historical records, and critical research, legal antiquarianism, and the internal evidence afforded by every European code, equally attest the fact, that the civil law of Christian Rome formed the basis of every European system of jurisprudence. And the knowledge of the fact is essential to an enlightened appreciation of the comparative merits of any of those systems of law which, by course of time and national peculiarities, have necessarily become in a very great degree diversified. Tracing a common origin, founded on common principles, it is by an appeal to these principles we can the most impartially determine any disputed question that may arise, and best free ourselves from national prejudices and all the bigotries which they engender. What we have said applies to the law of England, along with the laws of every other European country, although not perhaps in so great a degree. By reason of our insular position, of our national obstinacy, and above all, by reason of that change in our national religion which has necessarily influenced our laws, the outward cast and character of our law may not at first sight so resemble the Roman law as those of other countries, even under our own crown. Thus the law of Scot-

land, as well as that of France, more resembles that of Rome, than does that of England. But this is a difference more either of procedure, or of statutable regulation, than in principle and real essential character. And the most learned of our jurists agree in ascribing to the Roman law the origin and foundation of our own.

Thus old Coke strenuously maintained that our law was not essentially altered in the time of the Saxons, from that which existed in the time of the Britons and the Romans; and that the basis of our common law is to be found in the Saxon laws. This is quite in accordance with the very latest researches on the subject; and thus Professor Creasy, in his interesting little work upon our constitution, shows clearly that the Saxon conquest by no means exterminated the British element in our language or our laws, but rather incorporated and adapted it. And the Norman conquest only overlaid the Saxon law with the feudal system, which has now for ages been obsolete. This being so, it follows that our common law must have had in it all along, a large admixture of the Roman law, for no one will seriously maintain that the barbarian Britons, as found by Cæsar, could have had any law worthy of the name. Coke and Blackstone, who, each in his own age, strove to the utmost to flatter the sentiment of nationality as opposed to Rome, carefully kept out of sight the Roman element in our law, and wrote of the Saxon or Briton law as if they ever had a real separate existence, which they never could have had, at least as a civilized law, seeing that when subdued by the Romans they were simply in a savage state, and learnt from Rome both law and religion. Surely the most ardent "Anglo-Saxon" can scarcely be serious in supposing that the savage hordes who came over with Hengist and Horsa had any organized and civilized system of jurisprudence. But the matter is not open to argument; for any one who reads the Anglo-Saxon laws will see, that, except so far as regards the half extinct traces of such barbarous customs as serfdom or ordeal, or the like, their origin and character were Roman: even the canons of the Roman Church being solemnly recited and recognized. And here, as in Rome, the Roman civil law was necessarily harmonized with the Roman canon law, which still to a great extent is acknowledged by, or rather incorporated with, our own. The law of the Church must necessarily have

modified the civil law, and imbued it with its own spirit, and adapted it to its own principles. And this law it was on which the Britons and Saxons, when successively Christianized, moulded their systems of law, and which, therefore, as Coke shows, formed the basis of our ancient common law.

This perhaps is for several reasons more true, or at least more discernible, in a system of equity than of law. In the first place, equity being rather a science of pure justice and conscience, is based on broader principles, less open to change, and less affected by positive law, than is the case with what is in a narrower and stricter sense called law. We say in a narrower and stricter sense, for originally equity was deemed a necessary attribute of law. Our oldest textwriter, Bracton, basing his work upon the code of Justinian, thus describes it. And even in the year books, instances can be found of the Judges appealing to the "Imperial Law." Equity is in its principles as ancient as the civil law; and its rudiments may be traced in Cicero's treatise *De Officiis*, where cases are put which would at this moment probably be acknowledged and followed in our Court of Chancery. Principles founded on equity never change; and it is a curious fact illustrative of our argument, that the civil law of *cessio bonorum* forms the basis of our modern law of Bankruptcy. And so as to the doctrine of trusts.

All this is pre-eminently the case with regard to the law as to guardianship in infancy, which in this country is chiefly administered in Chancery. Its principles can be traced all through the Roman law, even up to the Twelve Tables. "Howsoever a father of a family directs by will as to his property, or the guardianship of his children, such shall be the law. But if he dies without a will, and has no direct heir, the nearest male relation on the father's side shall have the property," and doubtless, according to the spirit of the law, the guardianship. That it was so indeed is clear from later versions of the Roman law. Any father might leave whom he pleased as guardians (*tutores*) to his children. But if he died intestate, this charge devolved by law on the nearest relation by the father's side. When there was neither a testamentary guardian nor a legal one, then a guardian was appointed to infants by the *Prætor*, who answered to our Chancellor. If the Guardian did not discharge his duty properly,

there could be a suit against him. And, as Mr. Bowyer states in his "Commentaries," the Prætor could interfere even with the will of the father; the principle being, to regard the welfare of the infant as the paramount consideration.

Now our law followed the Roman in this as in every other subject, save so far as it was modified by the feudal system, which in the case of heirs to landed property, altered the guardianship of the person, with reference to the rules of descent, and severed the guardianship of the estate from that of the person, a distinction indeed to this day recognized both in the English and the Scottish courts. But when the feudal system was abolished, and the statute of Charles II. gave to the father the right of appointing a testamentary guardian, the law of guardianship became in substance assimilated to that of Rome, and the Court of Chancery, then establishing and consolidating its jurisdiction, declared guardianship a trust, and claimed to enforce its due administration, and to supply the want of any constituted guardianship, by its own power of appointment, on the part of the Crown, as *parens patriæ*, and guardian of all the unprotected infants in the realm. This jurisdiction, though practically it may not be enforceable but by means of money, is not limited to cases of property, but rests, as will be seen, on a broad principle, applicable to every child not having a natural or legal guardian; and as regards the discharge of the trust of guardianship, applicable to every child in the kingdom.

It is impossible to imagine any jurisdiction of greater social importance. The more so in this country, especially as to Catholics, by reason of the diversities of religious persuasion, the number of mixed marriages, and the consequent embarrassments which result from contests between surviving relatives as to the religious education of children who have lost one or both of their parents. There is on this account all the greater necessity to resort, as much as possible, to principles common to all, based on the principle of doing equal justice to all.

So long as the penal statutes existed against Catholics or Nonconformists, this, of course, could scarcely be. Now happily it may be; and our courts acknowledge that it ought so to be, and recognize the principle that guardianship should be administered without reference to religious

differences. As a cardinal principle, this is recognized equally by the law of Rome and of England. By which we mean that the Roman and the English laws equally recognize the great principle of religious liberty, that a parent may bring up his children in any form of religion, or in case of death decree that they shall be so brought up. But then our law as well as the Roman, does not allow of any absolute arbitrary right in the parent to deal with the religion of his children as his caprice may dictate, to the prejudice, or at the risk of injury to their moral and religious welfare. The laws of Rome and of England equally regard guardianship, natural or legal, as a trust, rather than a mere arbitrary right, like that of property. Though even as to property, no man may use his own so as to injure any other. And the law of England, not less than that of Rome, denies that parents can capriciously exercise their natural or legal rights to the injury of their children. Guardianship is a trust to be administered with a view to the welfare of the children; that is the great principle common to the laws of every European state, and recognized equally in the courts of England and of Rome.

Therefore the English court of Chancery does not hesitate to take children even from their father, if he is a sceptic. Witness the case of Shelley, whose avowed Deism enabled Lord Eldon to take his children from him. But the English law, as well as the Roman, recognizes the right of the Jewish parent, the Socinian, or the Lutheran, or the Calvinist, to bring up his children in his own form of religion. To a certain extent, Rome recognizes the parental right as founded on the law of nature, or rather on a law of God, prior to that of revelation. And so as to the law of England. But the moment that a child's religious education is trifled with, tampered with, or dealt with capriciously, the courts both of England and of Rome interpose, and say, "this must not be." And why? Upon the principle that capricious changes in the religious education of a child, tend to unsettle his mind, and therefore tend to that which Christians of all persuasions regard as an evil, viz.: scepticism. It is impossible, surely, to question the soundness of the principle, however we may in particular cases sustain its application. No Catholic can question, on such a subject, a principle recognized at Rome. And that it is recognized there is as much beyond a question, as that it is recognized here.

The Jew at Rome may bring up his child a Jew, but he must not bring up any one a sceptic, and therefore he must not so deal with him as to tend to that fatal result : and so unsettle his mind as to make him a sceptic. So in this country. The Court of Chancery will not allow a parent, even in his own life, to trifle either with the temporal or spiritual interests of his children. Thus when a Baptist let his daughter live for some years with a Church of England relative in wealthier circumstances, who provided for the girl, and educated her so as to fit her for a superior station in society, the court would not permit the father to take her back. No one can help seeing the principle, and no one can avoid acknowledging that if it is right and just as regards mere temporal interests, it is infinitely more so as regards spiritual. But further, our own courts favour the Established religion : a century ago Lord Hardwicke took the child of a deceased Jew from his paternal relatives, and gave him up to his mother, who had become a Christian. It may be that this decision would not be followed now ; but that is no reason why Roman Courts should follow ours. It is a curious circumstance, that among our Protestant fellow-countrymen, the question of guardianship as to religion has hardly ever arisen in a purely religious form. In that form it has almost always arisen as between Catholic and Protestant. But in all the cases our courts have at all events professed to act upon the same principle, viz.: that the parental right, even in the parents' lifetime, and of course *a fortiori* the right of testamentary guardianship, must so far be controlled, that it must not be allowed to be arbitrarily or capriciously exercised, so as to risk any injury to the child, especially in respect to its religious belief. That diversities of religious teaching tend to infidelity, no Christian, certainly no Catholic, can doubt. And no man of sense would deny that to teach a child one year this form of Christianity, and next year another, and then another, and so on, would be an evil. But the important point is, that the Court of Chancery claims to control parental rights on its own ideas as to the welfare of children. It does so on the only principle capable of fair and equal application by a Protestant court, equal application to all religious persuasions. Whether or not it has always been so impartially applied, might be a question. We believe, on the whole, it has been.

There must of course be this difference between the Roman and the English courts on the subject, that whereas the former from their very constitution recognize an infallible authority, the moment they assume any jurisdiction to act at all, they can admit no doubt as to what is the right religion; whereas our English courts, in theory, regard all forms of Christianity as equally entitled to respect. But then as neither the courts of England nor of Rome assume jurisdiction to act against the natural guardian, until there has been some breach of trust, by some capricious or mischievous exercise of the natural right, or some violation of positive law or obligations recognized by law, or some misconduct in the eye of the Church, what follows upon their exercise of that right is, for the purpose of this argument, altogether immaterial. If the father's right is to be displaced, it matters little, as regards that right, in what religion the child is brought up. The Roman and the English courts concur as to the cardinal principle upon which they displace the paternal right. They differ only on the principle on which they proceed to exercise their own guardianship. The courts of England order the child to be brought up in the form of Christianity in which it has been previously instructed before the capricious change, without reference to its religious truth. The Roman courts, of course, direct the child to be brought up in the Catholic religion. This we repeat is a difference subsequent to the assumption of the right of guardianship by the state, and therefore having nothing to do with the present question, which is the assumption by the State of that right. As to that, the Roman and the English courts act on the same cardinal principle, that guardianship, natural or legal, is a trust, and is not to be capriciously exercised. In practice, the English Court of Chancery secures the same result as the Roman in this respect, that for the most part, the child is brought up in the Established religion. Partly by reason of the legal presumption that every one not proved to be of a different religion is of the established religion. Partly, perhaps, through other causes. But whatever the cause, the fact is certain; and we are not aware of any instance in which the Court of Chancery has interfered, as to the religious education of a child, where the religious instructions had been uncertain, in which the result has not been that the child has been brought up in the

Church of England as by law established. This is natural, almost inevitable, where there is an established Church. And it would scarcely be fair to murmur if the same result followed in Rome as in England. Undoubtedly in England it is so. In the case of poor Mrs. North, who just before her husband's death became a Catholic, as he was about to do, though unhappily for himself, and his wife and children, he delayed the act a few weeks, until, alas! too late; in accordance with the settled principles of the court, her children, though some were of tender age, were taken from her, and given to paternal Protestant relatives, upon the ground partly that it would be prejudicial to them to have their religious instruction changed; but partly that their father having left his religious belief uncertain, it must be presumed that he continued of the established religion.

Now to understand the full force of these decisions, and of the doctrine of our courts on which they proceeded, we must bear in mind that by the common law of England, the mother surviving the father, is natural legal guardian; so that here the Court of Chancery took away a natural and a legal right, upon the ground that, according to its principles, to permit the mother to retain the children and bring them up in a different religion, would be a breach of trust, and tend to their prejudice. It could not have been merely on the ground of the paternal right to have his children educated in his own religion; for he left that uncertain, and the court went on the legal presumption that it was the established religion. The father's wish was disregarded; just on the same ground as that in which it was professedly regarded in the other cases; namely, the welfare of the children: with reference to which, it is plain, the Court of Chancery allows or disallows the paternal right at its own discretion. It is obvious that these cases can only be reconciled upon the cardinal principle already above referred to, which has been always acknowledged as the guide of the court, in the exercise of this branch of its jurisdiction, viz.: that the benefit of the infant (and of course this means the court's idea of it) is to be primarily considered. On that ground it was that the paternal right in some cases, and the maternal right in other cases were alike disregarded. The court in the first case denied that a father had any absolute or arbitrary right of dictating the religion in

which after his death his child should be brought up. And in the case of Mr. Wellesley, the House of Lords distinctly laid down what had already been decided by the Court of Chancery in the case of Shelley, that the jurisdiction of the court could and would be exercised in the lifetime of the father, as well as after his death, and against his natural right, not less than that of the mother's, if the benefit of the infant should require it. There is, according to the law of nature, and the common law of England, no difference between the right of a father to the guardianship of his children, and that of the mother surviving him. This was lately decided solemnly by the Court of Queen's Bench. When, therefore, Lord Justice Knight Bruce took Mrs. North's children away from her, he acted upon the principle that he had authority to set aside the law of nature and the law of the land, in the exercise of the supreme and paramount jurisdiction of the Crown as *parens patriæ*, and as sovereign guardian of all the children in the realm. And who can fail to see that that was the assertion of a jurisdiction not one whit less sovereign and supreme, than any which the Pontiff, in the exercise of his jurisdiction as supreme Judge in his dominions, might claim to exercise? So in the case of Alicia Race; the Vice-Chancellor Kindersley, although the Court of Queen's Bench had solemnly adjudged that by the law of the land the child ought to be in the mother's custody, took the child away and gave her into the care of strangers, and this, although the father had distinctly in his last will confided his child to her care! In the cases of Mrs. North and Mrs. Race, the desire of the father that the child should be with the mother had no effect upon the court. Shall we say that there was inconsistency, or partiality, or injustice here? No. There was an appearance of inconsistency, but all the cases are at all events thus far consistent, that they are reducible to one great cardinal principle, which in all the cases the courts have solemnly asserted that their jurisdiction, in the matter of guardianship, is sovereign and supreme, and is exercised only with regard to that which the courts consider the welfare of the child. Upon that principle the cases are reconcilable and consistent, but upon no other. And of course it involves this, that the jurisdiction of the court is paramount to any parental right, paternal or maternal.

So in the Race and Stourton and Whitty cases. The Court of Chancery took the child from the mother in the first case, because it had in fact been brought up a Protestant, and it would in the opinion of the court have injured it to change its religious education. The court in the other cases declined to give the child to the paternal guardian to be brought up in the father's religion, precisely upon the same principle, viz. : that he had, in fact, though improperly, been brought up in the protestant religion, and that a change of religious instruction would injure him. In all these cases it is clear the court dealt with the maternal and paternal right upon the same principle, and claimed to displace either at its own discretion, with a view to the welfare of the child. In the Stourton and Whitty cases this was most clearly laid down. There the paternal guardian claimed the child, to bring him up a Catholic according to the will of his father. The court declined to take the boy from his mother, and vindicated its course upon the cardinal principle that the court must act on its own view of the benefit of the infant. The Lords Justices said that that must be the primary consideration, and that the wishes of the father could only be considered so far as they were consistent with that primary object. The court thought that it would not be for the benefit of the infant to remove her from her mother, and declined to do so, and in defiance of the father's will the child is being brought up a Protestant. It can make no difference in point of principle that the father was dead; the cases show that the court set at nought the paternal authority whenever it pleases, be the father living or dead, and although one of the Lord Justices who decided *Stourton v. Stourton*, said, in the cases of *North* and *Whitty*, that "faith must be kept with the dead;" yet in disregard of that principle, so solemnly and doubtless so sincerely asserted, the court did not scruple to direct that the child should be brought up in a faith different from the father's; and why? simply on the cardinal principle, that the court's jurisdiction is paramount to parental, even to paternal authority; and is to be exercised on the court's view of the welfare of the infant; and it is only fair to add that we know of two cases in which the court has acted on this principle in favour of Catholics.

Nor has the principle ever been questioned, averse as is this country to arbitrary power. Perhaps this may be be-

cause as yet it has for the most part been exerted against Catholics and in favour of Protestants. Of course, however, this can scarcely be said to affect the soundness of the principle, and certainly Protestants cannot question it, since for ages they have profited by it, and their courts constantly assert it. And not only so, public sympathy and support have been appealed to in order to provide the funds necessary to enable zealous Protestants to enforce the exercise of this arbitrary jurisdiction of the court against Catholics. We never can forget the efforts which were made to wrest little Alice Race from her mother; the agitation; the subscriptions; the colourable endowment, and all for what? To enable the Vice-Chancellor to say, "I am supreme and sovereign guardian of the child, and I say that it is for her benefit that she should be not with her mother, but with strangers, and I order that she be taken from her mother and given to strangers!"

It hardly seems credible that the very men who agitated and subscribed to secure this result, should have come forward and raised a "cry" against the Holy Father for taking a Christian child from a Jewish parent, in order to its being brought up a Christian. Yet so it is. Such is the unscrupulous inconsistency of bigotry.

What was the Mortara case? There is in the Papal States a law, that Catholic servants must not live in Jewish families. The known reason of the law is, that the general law of the Church as applied to such servants of Hebrew children, obliges them, should children be taken dangerously ill, to baptize them. And, by another law of the Papal States, such baptism will be a ground for removing the Christian child from the parental custody, and for placing it under the guardianship of the sovereign. With a knowledge of these laws, the Jew Mortara had a Christian servant, and not only so, but allowed her to have the care of his child at a time when it was very ill. That was in 1852; and the servant then did what he knew she must do, that is to say, she baptized the child. In other words, she, with his allowance, with his tacit acquiescence, so far as his indifference and negligence amount to acquiescence, made the child a Christian. During six years he allowed the child to remain under her care, either knowing or not caring to know, and not taking the trouble to enquire whether she had done what he must have known the law bound her to do; and six years afterwards, and

when the child was an instructed Catholic, the fact came to the knowledge of the Papal government, and in June, 1858, the child, according to the law of the Papal States, was taken from the father, and placed under the guardianship of the Church. Just as, in Mrs. North's case, her children were taken from her, and placed under the guardianship of the court. Just as, in the cases of Mrs. Race, and Lady Darnley, and a host of others, the same course was taken. Just as, in the cases of Wellesley and Shelley, the children were taken from the paternal custody, as in the other instances they were taken from the maternal care.

The English Chancellor has always acted on his view of the welfare of the child. The Roman Pontiff acted upon his. No doubt those ideas greatly differed; and Lord Cottenham, who gave Mr. Gorham the living of Bamford Speke, did not believe in baptismal regeneration. But all along we have taken care to point out that the question is not as to the exercise of the jurisdiction, so much as to its existence; and, above all, as to the cardinal principle on which it is asserted. The English Chancellor thinks it conclusive that a child has been a few years taught the Church of England Catechism, and sent to church. The Roman Pontiff deems it conclusive that the child has been washed in the laver of regeneration, and made a new creature in Christ Jesus. But the one not less than the other asserts his right to act on his idea of the child's future welfare. Why is one to be abused as tyrannical or arbitrary, any more than the other? What greater interference is there with natural rights in the one case than in the other? Nor let it be forgotten that our own Ecclesiastical Courts have recognized the doctrine of baptismal regeneration, and also given to Baptism some legal effect; for the Privy Council have affirmed that the established religion may teach baptismal regeneration, and need not bury persons who die unbaptized. And all Jurists allow that the positive laws of a state not contrary to nature or Christianity, bind those who live under its jurisdiction. All our natural rights, after all, as Blackstone shows, are controlled by the regulations of society; even personal liberty. And certainly the Court of Chancery regards not the father's wishes as the primary object of consideration, but the benefit of the infant. So is it with the Holy Father. He acts upon the very

same principle as that upon which our courts profess to act. He and they would not exactly agree as to what is for the welfare of an infant; but that does not affect this question, which is as to the existence of a jurisdiction to declare and secure what is deemed to be such welfare. And why should not such a jurisdiction be exercised by the Chief of the Roman Church, and the Sovereign and Supreme Judge of the Roman States, as it is by Vice-Chancellor Kindersley, or Lord Justice Knight Bruce?

There are even Anglicans who have been able to see this, and have had the manliness to avow it. The following article appeared in the *Union*, and so much to its credit is the publication, that we copy it entire.

"Our Exeter Hall friends will, doubtless, exclaim against the Pope's retention of the Jew child; although it has been in conformity with the child's own wishes, expressed at one of the father's visits. They should, however, pause awhile before they cry out, and take a little care to be informed as to the principles upon which our own courts act in such matters. They should remember that they themselves argued, in the case of Mrs. Race last year, that a child, even between seven and ten, might be allowed a *choice* to remain away from her parent, in order to be brought up in accordance with 'religious impressions' which the child had contracted. And the Court of Chancery, in Lord Stourton's case last year, gave a child of ten years of age an election to go with his mother, or stay with the paternal guardian. The child, of course, preferred the former; professing to have 'religious impressions' in accordance with his mother's, and at variance with his father's. The real reason, however, in all probability was (though it did not occur to the learned Lords Justices) simply that the child did not like to be placed in a school, which was what the guardian wished to do with him. But in that case, the court laid it down that the father had no absolute right to prescribe the religion of the child; and that the matter to be considered was *the welfare of the infant*.

"The same court, in Lady Darnley's case, took away a child from the mother because she was an Irvingite. What will Mr. Drummond say to that? In the last case on the subject the Lords Justices thus lay down the rule:—"It is the first duty of the court to consult the well-being of the infant; and, in so doing, it recognizes no religious distinctions. If, consistently with this primary duty, the wishes of the father (*or mother*) can be attended to, the court pays attention to his wishes; but if they cannot be carried into effect, *without danger to the welfare of the child*, the father's wishes cannot be attended to." (*Lord Stourton's Case*.) Now this is just what the Pope says. The child is old enough to value the grace of baptism, and to be resolved to continue a Christian: were

he given up, he would be *forcibly* subjected to the Jewish religion, against his will. We would ask, then, are children to be declared incapable of having Christian faith? And does not Christianity, to a certain extent, confer civil rights, as it certainly does spiritual and civil responsibilities?

"By the law of the Church a child of seven is capable of mortal sin; and, by the law of this country, is capable of committing a capital crime! The Court of Queen's Bench allows that the law books did not define the exact age within which the Court would order a child to be delivered up to the parent; but, from the mere necessity of fixing *some* age, declared that the law fixed fourteen as the age at which a child might *choose* its home. The Court of Chancery has practically permitted the choice much earlier, even under ten; for not only has it *asked* the child its choice, but it has also *followed* its choice, though not professing to act solely upon its choice. The Court professes to act on its own notion of the child's welfare: what is that notion? Always, of course, in favour of the National Church; and what else does the Roman Pontiff than this? he acts on *his* idea of the child's welfare; but at the same time also on a higher idea of the privileges of a baptized child. It is easy to abuse: recent events show that the vulgar and the ignorant are always most prone to revile; but our readers have, we are sure, more candour and more charity; and, above all, too deep a sense of the respect due to the rights of a baptized child, who is an intelligent agent, to blind themselves to the real truth and justice of the case."

It will be observed that our contemporary points out the fact that the child *desired* to remain with its Christian guardians, and sincerely embraced the Christian religion. The *Weekly Register* enlarged on that view of the case, and had an article entitled "The Liberty of a Little Child to be a Christian;" asking if the English Court of Chancery would force back into parental custody a child of seven years of age who became a Christian. That is a most interesting and momentous view of the question, and in that respect the case may often present itself. We should be sorry to suppose that in such a case the Court of Chancery, in the face of its own maxim, that it is to look to the benefit of the infant, would do its utmost to compel the Christian child to apostatize, and force it back into the care of those whose idea of duty would be to coerce the child into apostasy? Suppose one of our Exeter Hall societies were to do in such a case what they did in the case of Alice Race, and what the Holy Father (oh! in how different a spirit!) did in the Mortara case? make a provision for the child, with a view to its being

brought up a Christian; and suppose the Vice Chancellor were to converse with the child—as he did with little Alice—and were to find that the child was as sincerely a Christian as a child could be, we want any Chancery lawyer to tell us whether the Court of Chancery would force back that child to its Jewish parent? we believe it is plain that it would not. If it would, then was Mrs. North cruelly ill-treated, and Lady Darnley most unjustly dealt with. If it would not, then what becomes of the cry against the Holy Father upon the case of Mortara? That is one view of the case, taking into account the child's age and religious impressions.

But putting that out of the question, and supposing the child incapable of personal opinion or decision, then we not the less recur to the cardinal principle of the English and Roman jurisdiction in guardianship, that the welfare of the child is to be the primary consideration. In that view the only distinction that could be suggested by an English lawyer would be as to the grounds upon which the jurisdiction might be asserted in England and in Rome. No doubt there may here be a distinction, but it is one without a difference, or rather it is a difference without a distinction. The precise state of facts would arise in this country which has arisen in Italy. But resemblance of circumstance is not essential to analogy of principle, and the question is as to general principle. In the Roman States the breach of certain particular laws gives the state the right to assert its sovereign guardianship. In England it is the disregard of certain other laws. What does that matter? How does that affect the question of jurisdiction? In England a very little will suffice to enable any one to make an infant a "ward of court," and the Chancellor its guardian. Witness the case of Alice Race, where a trifling colourable endowment did it. The Pope has done as much for little Mortara; he has engaged to provide for him for life. In that respect there is no difference. Then as to the grounds or reasons on which the English court will take a child from its parent or paternal guardian, they are not very serious; in Mrs. North's case and Lady Darnley's it was merely the fact that they had been brought up as Protestants. The Roman Pontiff deems baptism of more moment than any merely human teaching, for he believes it works a sacramental change upon the soul.

As if to prevent any cavil or quibble on the subject, even while the journalists of this country were reviling the Holy Father for rescuing the child Mortara from compulsory apostasy, Lord Chancellor Napier was here in Dublin acting upon the selfsame principle, or at all events professing to do so, exercising a jurisdiction which he could not have any right to exercise except upon the selfsame principle as that on which the Roman Pontiff acted, viz., a supreme regard for the future welfare of the child. The case of Murphy is the exact parallel of that of Mortara. Murphy was a Catholic who carelessly allowed his wife to bring up his children Protestants, just as the Jew Mortara carelessly allowed his servant to make his child a Christian. Nay, the Jew's case is stronger, for he acted in contravention of a positive law, which Murphy did not. Murphy had no distinct notice by an express law, that if he let his children go to a Protestant Church a year or two, they would be prevented by the Court of Chancery from being brought up Catholics. And one benefit which will result from these discussions is, that they will serve to bring home to the minds of careless Catholics, the fearful risk they run, and the awful responsibility they incur in this respect. Well, Murphy, on his deathbed, solemnly re-claims his children for the Church, and commits them to Catholic guardianship, from which they are at once taken by the Lord Chancellor. Why? because he professed to deem it for the benefit of the children that they should be brought up Protestants. We doubt not he sincerely thought so. And what is more to the purpose, we acknowledge that in asserting this jurisdiction, he was warranted by the authorities in our Courts of Chancery. His sophistical astuteness in that reasoning upon the evidence by which he attempted to sustain his conclusions as to the facts, are quite another matter. We are dealing not with the manner in which the jurisdiction is exercised, but with the existence of the jurisdiction. Lord Chancellor Napier does not the less assert and possess a power to set at nought the paternal wishes as to the religious instruction of his children, because he tries to justify its exercise by reasoning which sounds like sophistry. Undoubtedly he has the jurisdiction—that is what we are dealing with. And why should not Pope Pius have it as well as a Lord Chancellor Napier?

We put the question in the very lowest light. We ask

no more for the supreme Pontiff than what is conceded to Lord Chancellor Napier, or Lord Chancellor Chelmsford. Surely that is not an "extreme," or an "ultra-montane view." Our Equity jurisdiction, as we have seen, is, in its origin and its principles, Roman. Why should it in its original seat and source, be less rigorous than it is in those lands which borrowed it from Rome? Lord Chancellor Napier lays it down (says the *Register*) that the advantage of the child is the real object of the court; and it is obvious that every Judge, both in England and Ireland, must regard it as the greatest possible advantage to be a Protestant, and the greatest misery to be what they call a Papist. No doubt: and our Protestant fellow-countrymen have no objection to the exercise of such a jurisdiction by Protestant Judges over the children of Catholics, although they are seized with horror when a similar jurisdiction is exercised at Rome over the children of Jews. Is there any honesty or consistency in this? Does it not savour of the rankest bigotry?

In the Murphy case, as in the Race case, strangers were allowed to constitute the infants "wards of court," by what precise means is not very intelligible nor very material. It is unnecessary to lay down with precision what will be enough to make an infant a "ward of court," in other cases than those of testamentary guardianship. That always creates a trust to be administered under the control of the court. But it is clear that the jurisdiction of the court is not confined to testamentary guardianship. In the Wellesley case, the House of Lords laid down, as indeed had already been illustrated in the case of Shelley, that the court could control the education of a child, even in the lifetime of its *father*. And, as we have seen, the cases are numerous in which the court has displaced the mother, whose right at common law is clear when she survives the father. So that the Courts of Chancery in this country can, and do, whenever they think proper, displace the natural parental guardians; and when they have done so, act as they think best for the welfare of the infant, and that without, in theory at least, and, as we believe for the most part, in practice, without any preference of one religion over another.

Now the law of guardianship, like that of marriage, or of contract, is necessarily in other countries as it is in our own, a creature of positive law, and must depend upon

domicil. And the House of Lords, a few years ago, recognized the right of the Court of Chancery to appoint guardians for infant foreigners in this country, even though they had guardians abroad. In our own courts it is perfectly recognized that the *lex loci* regulates the marriage, even of British subjects abroad, and regulates all contracts made abroad. In the Sussex Peerage case, for instance, Cardinal (then Dr.) Wiseman was examined at the bar of the House of Lords, as to the law of marriage in Rome, which it was allowed would bind even a British subject of royal blood. Now, the law of guardianship, in Rome, constitutes the Sovereign and Supreme Judge the guardian of a Jewish child, in case he is baptized, and binds Christians to baptize such children in case of illness, and for that reason, warns and prohibits the Jewish residents in the Papal States not to have Christian servants in their houses. The Jew Mortara wilfully broke this law, and not only had a Christian servant, but permitted her to have care of his child while in that state in which, as he well knew, she would be forced to baptize him, and thereby to make him a "ward" of the Holy Father. The act was done, and, by the law of the Papal States, the child, in consequence of that act, became the ward of his Holiness.

Be it observed that, though in principle the Papal law may require the removal, or at least securing, of the baptized child, so soon as baptized, at whatever age, and certainly before it attains the age of religious impressions: yet it was not required in this case, which is in fact, infinitely stronger in favour of the Holy See, for the Jew father, for six years after baptism, left the child under the care of the Christian servant, so that the boy attained the age of *seven* under her charge. And thus the case was brought within the authority of a host of cases in our English Courts, which decide that parents or parental guardians lose their right by neglect, and that after allowing a child to be brought up in a certain form of the Christian religion, they cannot capriciously change it for another. That was the very ground taken by the Lord Justices in the Whitty and Stourton cases. It is not likely that the Catholic servant who had felt bound to baptize the child, would neglect to instruct him. And the father was well aware of what she would deem her duty, and tacitly by his indifference acquiesced in it.

Thus, as to the first step, the placing the child under Papal guardianship, it was as much the consequence of the carelessness, or indifference, or even the tacit acquiescence of the father, as the education of the little Murphys in Protestantism, was the consequence of their father's acquiescence or indifference; and in Whitty's case of the Catholic guardians. Lord Chancellor Napier finds no difficulty in saying that as the penalty for this indifference, the dying father's too tardy exercise of paternal authority is to be set at nought, and that he was to have "no place of repentance," albeit he "sought it carefully with tears." Yet that same Lord Chancellor possibly is scandalized at the Holy Father's exercise of his judicial authority in enforcement of the plainest laws. Poor Murphy little knew that he, by his carelessness, was sealing his children's fate for ever. There was no express law, warning him that the result of letting them go to Church would be to deprive him of all parental power over their religious instruction. In the case of the Jew, there was a clear plain warning, an express prohibition, a solemn legislative admonition, which he wilfully disregarded. Now surely the case of the Irish parent was more strictly dealt with than that of the Jewish parent at Rome. It does not appear that if there had been no express law in the case, the Pope would have acted as our Protestant Chancellor has done. The express law brought the matter home to the parent; gave him distinct notice of what he had to expect; put it in his power to avoid what took place; and made him alone responsible for it.

And then last of all there comes the child's choice, and election to be a Christian—as to which we have already observed, that should ever the question arise in this country, we very much doubt whether the Court of Chancery would give up a Christian child to Jewish parents; and sure we are, that if it did, it would create great scandal to thousands of pious Christians in this country.

It is perhaps one of the gravest questions that can arise in any Christian system of jurisprudence, when a child, by the profession of Christianity may become so far *sui juris* as to elect Christian guardians. Reasoning by analogy, we should say that it must be at the age of seven; because, by the law of the Church and the law of the land, that is

the age at which the maxim, *malitia supplet etatem*, applies, and the child becomes to the human law, and the Divine criminally responsible. Seven is the age of mortal sin, and seven surely should be the age of Christian liberty. Access to the sacraments can scarcely, by a Christian judicature, be denied to a Christian child, at an age when the law of God and the law of man equally hold it responsible for sin. This raises a most deeply interesting question of Christian ethics, to which, in any country not blinded by religious bigotry, the Mortara case would have awakened the greatest attention and the greatest consideration. But, alas! how much is sacrificed to a "cry;" and the momentous question, which the *Register* treated of, "the liberty of a little child to become a Christian," was lost sight of, amidst the howling outcry raised against popish intolerance. Strange to say, the whole difficulty was ignored—the question was assumed—and the Pope was reviled for outraging liberty! As if a child could have no right of liberty, even on the sacred subject of religion! As if baptism imparted no freedom, or dignity, or value to the soul, and left it just as it was before! Strange idea: in a country where the Bible is revered, and infant baptism is practised, and where the words are so often recalled, "suffer little children to come unto Me!"

The highest Christian authority in the world—the head of the Catholic Church—has in this case solemnly affirmed that, at all events, at the age of seven, a little child shall have liberty to worship its Saviour. And this is called tyranny! How modern enlightenment darkens the mind, thus to obscure and pervert its perceptions! A certain society have memorialized the foreign secretary to remonstrate with the Pope upon the case. And they were the very same men who subscribed money to retain counsel in the case of Alice Race, to argue strenuously that at the age of seven a child should have liberty to leave its mother in order to become a Protestant! They were the men who urged most earnestly, as Lord Campbell said, the doctrine of prevenient grace, and quoted the tender text: "Suffer little children to come unto Me!" What a parent of inconsistency is bigotry! A child is to have liberty to be a Protestant, but not to be a Catholic!

It would seem as if there was no religious zeal among a certain class in this country apart from hatred to popery

The pious feelings of this class were excited most painfully by the idea of a child being in any way coerced to remain among Catholics. But they seem to have regarded with entire apathy the forcible retention of a Christian child among Jews. Their zeal is obviously not so much Christian as Protestant. They strenuously uphold the liberty of a little child to be a Protestant. They deny him liberty to be a Christian. They are regardless of the parental rights of Papists—most tenderly alive to their sacredness in the case of “Jews, Turks, infidels, and Hindoos.” In India we are well aware that the judges of the courts of law constantly give up to Mahommedan or Hindoo parents children nominally converted to Christianity, unless they have attained the age of fourteen, which is the age at which, by the law of England, a child may elect a guardian. But, in the first place, the age is purely arbitrary; and no one will be so absurd as to argue that there can be anything in it which a foreign judicature is bound to adopt. And in the next place, as we have seen, our courts of equity disregard it, and take the more just and rational course of looking at the actual state and capacity of the child’s mind. Thus, in the two last cases which have occurred, the ages of the children were nine or ten. And in others of the cases we have referred to, between seven and eight, or between eight and nine. The truth is, that the mere age is nothing. But if an age must be fixed, the age fixed by the law of England, as well as the law of the Church, for criminal responsibility, is that of seven. There is, as a writer in the *Tablet* truly observed, no principle in a particular age or number; the age of seven has been thus fixed, because all children at that age, if not before, have attained the sense of right and wrong—the perceptions of conscience and the sad capacity of sin. And what we have been anxious to direct attention is the very principle itself. Positive laws must vary in different countries, and it is part of the law of all civilized countries to respect the law of any other. Even in the case of Roman law we have seen this recognized by the House of Lords, in regard to marriage. Why should it not be so as regards guardianship? Especially when, as we have seen, there is a general conformity in principle between the Roman and the English doctrines on the subject. That it would have been so, except for religious bigotry, we have no doubt. The whole idea of

religion, which appears to be possessed by a large class of persons in this country is, antagonism to Rome. They live in a state of feverish anxiety for some new cry against "Babylon." And the moment anything arises which excites their anti-papal feelings, they are absolutely blinded by bigotry, and deafened to everything but their cry. On this occasion we were told that all Europe joined in the cry; but at last it appeared that all Europe dwindled down to England. And even all England, perhaps, on a little reflection, will be found to dwindle down to Exeter Hall.

ART. III.—*Sancti Patris Nostri Clementis Romani Epistolæ binæ de Virginitate, Syriace*, quas ad fidem Codicis MS. Amstelodamensis, additis notis criticis, philologicis, theologicis, et nova interpretatione Latina, edidit, Joannes Theodorus Beelen. Lovanii, 1856.

FEW are ignorant of the coarse vituperations which were poured out by Luther and his brother Reformers against all who extolled in their writings or sought to realize in their lives the holy virtue of virginity; and hence, without doubt, many will be surprised that a member of his spiritual family should have been the first to make known to the literary world two letters of St. Clement of Rome, which are justly deemed the highest eulogy of that virtue, and at the same time the most diffuse, the most eloquent, and in every respect the most important treatises concerning it which have come down to us from the apostolic age. It was in the year 1752 that first were published by Wetstenius these two encyclical letters of St. Clement addressed "to virgins," *Ad Virgines*. The Syriac version was discovered by him in an ancient and valuable copy of the Syriac Peschito New Testament, which had been purchased a few years before at Aleppo, by Mr. James Porter, the British consul in Syria. In editing these letters Wetstenius presented, together with the Syriac text, a Latin translation, which however has justly been deemed defective and incomplete, whilst he

moreover allowed many errors to creep into the original text. It was the desire to remedy such defects that first impelled Dr. Beelen, professor of oriental languages in the university of Louvain, to undertake the republication of the letters of St. Clement; and that nothing might be wanting to render his edition complete, he collated anew the text of the Syriac manuscript. Not content however with publishing this text with perfect accuracy, he added a literal, yet elegant Latin translation, and prefixed to the letters a diffuse essay, in which he reviews the labours of his predecessors in the work of illustration, and refutes the various arguments which have been advanced during the past hundred years to impugn the origin and authority of these interesting relics: and we must add, his argument is proposed with such perspicuity and precision as to seem to set at rest for ever all doubt as to these two letters, being the genuine work of St. Clement of Rome.

Immediately on their first publication by Wetstenius, many arose to combat his opinion, and the apparent leaders of this opposition were Lardner* in England and Venemar in Germany. Many Catholics too, hesitated to receive them as writings of St. Clement: even Mansi† doubted of their genuineness and his sentiments were shared in later times by Lumper§ and Wiest.|| But far more numerous was the array of those who undertook their defence, of whom it may suffice to mention the name of Gallandi¶ in the last century, whilst in our own times, Zingerl,** Permaneder,†† Möhler,‡‡ Malou,§§ and Villecourt||| ably defended the same cause.

Indeed the testimony of St. Jerome, though concise, is yet so clear that it becomes difficult to understand how men, of judgment and learning could arrive at a contrary

* A Dissertation upon the two Epistles ascribed to Clement of Rome, &c. London, 1753.

† Epist. ad Wesseling, Harlingae, 1754.

‡ Concil. Collect. tom. 1. pag. 157.

§ De Vita &c. PP. part. 1. pag. 40. seqq.

|| Institt. Patrologiae. Ingolstadt, 1775. ¶ Max. Bib. PP.

** Die zwey Briefe &c. Wien. 1827.

†† Bibliotheca Patristica. ‡‡ Patrologie.

§§ Biblioth. Ascetica tom. xv.

||| Les deux Epitres aux Vierges, &c. Paris, 1853.

conclusion. Writing against the heretic Jovinian (lib. i. cap. 12.) and speaking of virgins, he says, "to these too, Clement, successor of the apostolic Peter, who is commemorated by St. Paul, (Philip. iv. 3.) addresses letters the entire subject of which regards the sacred character of virginity." Thus St. Jerome indicates the author of the letters, and those to whom they were addressed, as well as the subject of which they treat, whilst at the same time his words present a sufficiently manifest description of their matter to enable us to establish beyond a doubt that to no other work of St. Clement, but precisely to our letters had the learned Father referred.

The words of St. Epiphanius are not less explicit; nay, they give still more detailed and precise data for determining that the letters of which we treat were precisely such as, even in the age of Epiphanius, were read publicly to the faithful, and received thus a special sanction of the early Church. "The Ebionites," he writes, (*hæres. xxx. § 15.*) "retain a work which was written by Clement, and bears the title ἡ Περίοδος Πέτρου: this book they corrupted, leaving however some true things. But Clement himself convinces the heretics of falsifying the text by the encyclical letters which he wrote (αφ' ὧν ἔγραψεν ἐπιστολὰν ἐγκυκλίαν) and which are publicly read in the holy churches: for in these letters his faith and style are quite different from the work which the Ebionites attribute to him. In these letters he inculcates virginity, whilst they repudiate it; he extols Elias, David, Samson and all the prophets, whom they condemn, &c." The first characteristic of the letters here attributed to St. Clement is so peculiarly verified in our letters, that no doubt can be entertained regarding it, and that we may see how justly also the sacred characteristic (namely, the eulogy of Elias and all the prophets) is attributed to them, it will suffice to remark that in the first letter chap. vi. p. 29, we find proposed as a model of virginity, "Elias and Eliseus, and many other holy men;" again in the second letter (chapters ix. and x.) David and Samson are his theme of eulogy; and in chap. xiv. p. 105. he speaks in general of "the Prophets," and again in the same chapter p. 107, he extols "Micheas and all the prophets." Surely then all criticism must be abandoned, should it be supposed that these testimonies do not establish the existence and public use in the fourth century of

the two letters now before us, addressed *Ad Virgines*. It is equally certain that these letters were then referred to St. Clement as their author, whilst it is impossible that letters supposititiously bearing the name of this holy Pontiff, should in that early age be attributed to him, and as such be publicly used in the Church.

We find moreover that in the Syriac Church the tradition as to the genuineness of these letters continued ever clear and unhesitating. The fact of their being united with the Gospels of the Peschito version sufficiently proves that in the only manuscript in which they have come down to us entire, they were destined to be read publicly in the Syriac Church. We find moreover, reference made to them by Dionysius Barsalibi and other Syriac writers,* and the untiring labours of Mr. Tattam and his associates in exploring the remains of ancient Syriac literature,† have brought to light another copy of a portion of the Syriac version of these letters which serves to establish at the same time the antiquity of that version, and the perfect conformity of our text with that known to the early Church. The manuscript which presents this fragment is referred by Mr. Cureton (*Corp. Ignat. Appendix p. 212.*) to the sixth century, having been compiled, however, from works of an earlier date. Indeed the whole manuscript is nothing more than a collection of extracts from various writers, and when about to present a portion of our letters it gives to it the heading:—"of Clement Bishop of Rome. From his First Letter on Virginity:" then follows a long extract from this letter which it would be unnecessary here to copy, and which we need not add is found perfectly agreeing with the text of our epistles as presented by Dr. Beelen.

Having said so much regarding these ancient testimonies we will not dwell further on the intrinsic arguments which disclose to us the full features of St. Clement of Rome,—the same style, the same manner of arguing, the same doxologies, which characterise his other genuine writings. We will rather come at once to consider the matter of these letters, and dwell for awhile on some

* See *Polegomena*, Lect. 2. p. 53 et seqq.

† See 7th art. in the July number of this Review, 1858.

doctrinal points which bear on the controversies of the present day.

The subject of the two Letters of St. Clement, as their title indicates, is little more than a continuous eulogy of the holy state of virginity. To form a complete idea of the praises which he bestows on it many whole chapters should be referred to. It will here be sufficient to cull a few passages which illustrate his peculiar mode of establishing the excellence of this heavenly virtue, and which prove that the sentiments of the later Fathers of the Church were shared by its earliest ornaments and by the disciples of the apostles themselves. In the 1st epistle chap. 5. St. Clement writes:

"Can you conceive and understand how deserving of honour is virginity? can you comprehend how exceeding great is its glory? It was the womb of a virgin that bore our Lord Jesus Christ, the Son of God; and that body which he received and in which he triumphed over the world, he received from the Holy Virgin. Learn hence the sublime perfection and dignity of the virgin state."

These words present to us not only an eulogium of virginity, but they present moreover that very motive for its commendation on which in a later age St. Ambrose and St. John Chrysostom so loved to dwell, we mean the virginity of Mary—that our Divine Lord chose a virgin for His Mother, and one whose distinguishing feature even in prophecy was her virginity. "Behold a virgin shall conceive."

A little further on St. Clement gives St. John the Baptist as a model of virgins, precisely as in the fourth century St. Jerome and other Fathers eulogized his virginity. "In what," cries St. John Chrysostom, "can the true lovers of virginity, Elias and Elisæus and John, be said to differ from the angels? In nought save that they were clothed with mortal flesh." Another example or model of virginity introduced by our saint is *St. Paul*, (chap. 6th, p. 28-29.), thus corroborating the testimony of Tertullian, who was hitherto the earliest witness to the celibacy of this apostle.

Another important feature of the teaching of St. Clement is, that he commemorates the dedication of virginity to God by solemn vow. Many of the reformers, and in an especial manner Calvin, condemned as impious and unknown to the early Christians this practice of the

Catholic Church. But we have now a fresh illustration of how each new monument of antiquity that comes to light reveals to us more and more the profane assumptions of these ministers of iniquity, and discloses to us in its fair and unchanging features the true comeliness of the Church of Christ. For St. Clement (1st letter chap. 3.) manifestly supposes this custom to be prevalent in the Christian Church, when he speaks of those "who promise before God" to maintain their virginity. "*Quicumque coram Deo spondet se servaturum esse castitatem.*" (p. 17.) The same is also implied in the title by which we find the virgins more than once indicated in these letters, that is, *Bath Rejomo*; "*filia fœderis.*" Indeed, so definite is the meaning of this Syriac formula, and the idea of one bound by vow to God is so naturally suggested by it, that we know not how any one pretending to an acquaintance with the Syriac language could assign to it a different meaning. Yet we have, in Wetstenius's translation of these words, a sad example of how even learned men allow themselves to be blinded when it becomes their interest to minister to the sectarian prejudices of party. Wetstenius nowhere gives these words their true meaning, and hesitates not to translate them *filia nubilis*, a meaning, as Dr. Beelen well remarks, in which that phrase is nowhere to be met with in the Syriac writers. Indeed, little doubt can be entertained as to the genuine interpretation of the formula; its use is frequent in the Syriac writers, and its meaning clear and definite. Assemani, than whom we have no higher authority as to the force of words in that language, explains it as signifying "*puellam quæ virginitatem suam stabili fœdere seu voto Deo obstrinxerit.*"* It would not be difficult to add many examples from other Syriac writers to prove that this alone is its genuine meaning. The title of one of the Synodical Canons in the collection of Ebedjesu presents this phrase; whilst its subsequent context sufficiently defines its meaning when it merely enacts penalties against those who "violate their vow."† And to take one other instance, we find this

* *Acta Martyrum orientt.* part. 1. p. 42.

† *Scriptt. Vett. Nov. Collect. Maji tom. x.* p. 213.

very phrase used in the Acts of the Oriental Martyrs to designate the holy virgin Tharba, whilst the words which she addressed to the tyrant; "Ego sponsa sum Christi et virginitatem meam propter eum servo illibatam," clearly establish in what sense it was employed.*

It is true, some who have impugned the authority of these letters imagined that they had discovered in this very reference to the vow of virginity, sufficient grounds for referring the whole work to a later age than Tertullian, who, they say, was the first Christian writer to speak of the vow of virginity. Of course such a line of reasoning is easily proved to be fallacious. For let us suppose that this very work of Tertullian in which he commemorates this vow, was only now for the first time discovered, and that no other writer till the age of Jerome made like reference to it, should we be justified in concluding from this sole reason that such a newly discovered treatise could not be referred to Tertullian but must have a date assigned to it, later than St. Jerome's age? Certainly such reasoning would be ludicrous; and it must be equally absurd to conclude from the like argument of our adversaries that the Letters of which we speak cannot have for their author St. Clement of Rome. But we must moreover, remark, that the supposition on the other side rests on mere assertion, and is in plain contradiction with the monuments of the early Church; for, long before the age of Tertullian, we find mention made of those among the faithful who vowed their virginity to God, even going beyond the words of the apostle in his letter to the Corinthians which more than suffice to justify this holy practice. For instance, St. Cyprian in his treatise "de habitu Virg." ch. 4. speaks of those virgins who had consecrated themselves to Christ, "et tam carne quam mente se Deo voverunt;" and the words of Clement of Alexandria,* imply a similar dedication of virginity by vow to God.

There is another principle laid down by St. Clement on this subject which merits attention, we mean, *the excellence of virginity* above the marriage state. It was this Catholic view of that virtue which especially provoked the

* See Assemani Acta Martt. Orientt. part. 1. p. 54.

† Stromat. lib. iv.

rage and frantic declamations of Calvin and his followers; and yet this disciple of the Apostles, as if anticipating their vile calumnies, and considering virginity not only in itself, but also in its heavenly reward, is scarcely less diffuse in thus extolling it, than were an Ambrose,* a Chrysostom,† a Jerome,‡ and an Augustine,§ in later times. See especially letter the 1st. ch. 4th. which he thus concludes; "virginibus, ob sublimem illam et heroicam virginitatis professionem, daturus est Deus regnum celorum, sicut sanctis angelis."

St. Clement too, leaves no room for doubt as to the virginity of which he speaks, whilst he distinguishes it from the mere earthly virginity or the vain outward imitation of the Christian virtue which some perhaps may lay claim to without the pale of the Catholic Church. Such is not the virginity which our saint extols. The root of virginity, he says, is in the soul, and the Christian who aspires to it "must be clothed in every virtue of God;" living on earth, his thoughts are in heaven, and expressing in his outward actions the inward sanctity of his soul, "he is ever assiduous in knowing the Lord." (See p. 17. seqq.) In his exhortations too, he continually dwells on this aspect of virginity, as for instance, p. 25; "Strive to run your course, courageously and fearlessly resting your hope on the promises of your Lord, that thus through Jesus Christ you may attain the glorious crown of your divine vocation." It was in like manner that St. Ignatius of Antioch|| styled the virgins "illuminated by the Spirit of God," *illuminatæ a Spiritu*: St. Basil too defines a virgin "quæ se sua sponte Domino obtulit et vitam in sanctificatione prætulit." St. Clement himself in his first Epistle to the Corinthians chap. 38. styles virginity "a special gift of God." These words are almost repeated by Tertullian;¶ and St. Cyprian** writes: "Quod si Christum continentia sequitur, et regno Dei virginitas destinatur, quid est illæ cum terreno cultu et cum ornamentis? Ad meliora et divina se servat."

* De Virginitate, lib 1. cap. 7. † De Virg. cap. ix. seqq.

‡ Adversus Jovinian, lib. 1.

§ De Sancta Virginitate capp. 1. xiv.

|| Epist. ad Philadelph. ch. iv.

¶ De Virgg. velandis cap. xii. ** De habitu Virgg. cap. v.

Before abandoning this subject, let us now pause for an instant to contrast the action of the Catholic Church, with that of the sectaries without her pale, in regard of the virtue which was so extolled by the disciple of the apostles, or we should rather have said, by the Christian Church in the Apostolic age. It is needless to ask who they are that yet style their profession of this virtue "a remnant of ignorance;" or characterize its sanctuaries as "monuments of fanaticism and superstition." It is unnecessary too, to ask whose unchaste hand first sought to tear away the sacred veil of those who had consecrated their virginity to God; or who they are that now-a-days assail their sacred abodes, calumniate their institute, pour out against them all that the vilest malice can suggest, and persecute them with a shameless violence at which, not alone the pagans of Greece or Rome but even the Gothic barbarian hordes would have blushed. Not so is it in the Catholic Church; ever has she honoured virginity, and reckoned it amongst the noblest gems that can deck her children's crown. With jealous care she has ever guarded its abodes, setting aside for the spouses of Christ the hallowed seclusion of the sanctuary; as though (in the words of a late lamented writer) they were that priceless flower whose sweetest perfume and brightest hue fade and are lost at the slightest breath. Too well was the Church aware of the temptations which might assail it, amidst the scenes of a corrupt world, and what difficulties should beset its path, and hence prepared for it these sacred asylums, wherein it might ever be preserved and cherished and matured. Even in those ages when feudal barbarism and civil strife ruled the world, we find that these sanctuaries of the Christian virgins were left unharmed, and perhaps to the fervent prayers, to the hallowed gifts there incessantly offered by pure hands to the Most High, we are indebted much more than to visible causes and the efforts of men, for those rich heavenly dews which made those very regions bloom as the garden of God. And who can conceive the holy inspirations which are there received—the holy thoughts, the incessant prayers which as sweet fragrant incense ascend thence to the throne of God; and how pleasing must be to Him this spiritual holocaust of those who seek to realize in themselves His own earthly life, and who sacrifice for His love all the enticements which pleasure and

beauty and youth could present? Even to the worldly and profane, how many sacred thoughts should these sanctuaries suggest, whilst amidst the ocean of dissipation they arise, as so many ports of safety, and seem as beacon-lights of a more blessed and heavenly country.

But to return to the Letters of St. Clement.

The teaching of St. Clement as to the divine Inspiration of the Sacred Writings is already well known from his Epistle to the Corinthians, in which he styles them *the true Oracles of the Holy Spirit*: τὰς ἀληθεῖς ῥήσεις Πνεύματος τοῦ ἁγίου (cap. 45.): again, he declares that in the Sacred Scriptures *God addresses us through the Holy Ghost*; and in the Letters now before us we find the writings of both the Old and New Testament continually cited as "the words of God," also by the title '*the Scriptures*,' the emphatic Syriac article being used to designate them. But his teaching as to the inspired writings in these Letters is especially important when he commemorates as portions of them many of those Books which are rejected by the Protestant sectaries of later times.

1. It is thus in regard of the History of Susanna. In the 2nd letter (p. 103.) he speaks at great length of the dangers which beset a life of chastity, and proposes from the 7th to the 13th chapter examples from the Old Law. The first example is that of Joseph, from the Book of Genesis; then follows that of Samson, from Judges, and that of David and his sons, from the Book of Kings. Last of all is the history of Susanna, which occupies all the 13th chapter. In such a context surely no one will deny that the record of Susanna was deemed by St. Clement, and by the Church of his age, an integral portion of the inspired writings of the Old Law. Especially as immediately before citing these facts, he had said: "let us investigate and trace out these dangers from the Book of the Law to the New Testament;" and then having concluded the history of Susanna, he thus begins the 14th chapter: "But now let us see what they (the Scriptures) have also said concerning the Apostles of our Lord," which words need no commentary, as implying of themselves that the preceding narratives belonged to the Old Law, and were found in the Inspired Writings.

2. In like manner the Epistle of St. James is frequently cited as one of the Sacred Books; for instance, in the first letter (ch. xi. p. 51.) it is thrice referred to having the words

premitted, "they attend not to the words of God." It is also cited at pp. 55 and 57.

3. The Book of Ecclesiasticus too is numbered amongst the inspired writings, being ranked by St. Clement with the Book of Proverbs from the Old Law, and the 1st Epistle to the Corinthians from the New. (See 1st letter ch. xi. p. 51: and 2nd let. ch. xiii. p. 103-5.) Indeed, in the last passage referred to, the words of Ecclesiasticus are expressly styled the Sacred Scripture: "Again the Scripture saith." Hitherto St. Irenæus* was deemed the most ancient witness to the teaching of the Catholic Church in regard of this volume of the inspired writings, but now we have a far more ancient one amongst the disciples of the Apostles themselves.

4. In the sixth chapter of the first letter, St. Clement also cites, as from the Sacred Scripture, some words of the Epistle to the Hebrews, other words taken from the 1st Epistle to the Corinthians being immediately afterwards cited in precisely the same manner. The authority of the Epistle to the Hebrews became a matter of controversy even in Rome in the fourth century; but St. Jerome could even then appeal to *the ancient* writers of that see in proof of its genuineness and authority. His words are deserving of attention: "quod si eam," he writes to Bardanus, "*Latinorum consuetudo non recipit inter Scripturas Canonicas...nos tamen suscipimus, nequaquam hujus temporis consuetudinem, sed veterum Scriptorum auctoritatem, sequentes, qui plerumque ejus utuntur testimoniis, non ut interdum de apocryphis facere solent, sed quasi Canonicis et Ecclesiasticis.*" Amongst the ancient writers of the Roman Church thus referred to, surely our Saint must be numbered; and indeed his having cited in the letters now before us, the Epistle to the Hebrews as portion of the inspired writings, can the less surprise us, as in his first letter to the Corinthians, ch. 36, he had already adduced as words of Scripture the beautiful passage in reference to our Saviour, "who being the splendour of the Father's glory, &c." (ch. i. v. 3.)

Another doctrinal point on which Dr. Beelen dwells, is the teaching of St. Clement as to the liberty of our will and the merit of our good works. It would be more than

* Adv. Hæres. iv. 26.

useless to refer, at the present day, for the sake of refuting them, to the long since exploded theories which the Reformers of the sixteenth century so vauntingly advanced in regard of these doctrines. The common sense of mankind found these theories too repugnant to every rational sentiment of our soul, not to shrink as if instinctively from them: hence no nation adopted them as the basis of its laws, and all avowed that, though such teaching might flatter proud minds, and serve as a mantle for the evil designs of corrupt hearts, yet no true morality could subsist with it—it could not develope any germ of virtue, or foster any principle which might be destined to exalt the dignity of man, to promote civilization, or entwine more closely the hallowed bonds of Christian love and social brotherhood. And yet amongst the many novelties which Protestantism advanced, perhaps its teaching on this head was the only one which it could well style its own, and which it might propose to the world as a positive ground for testing the genuine character of the principles which gave it birth.

If we now briefly refer to the teaching of St. Clement on this head, it is only that the reader may rejoice in common with us, in reflecting how every monument of antiquity that comes to light bears with it new evidence of the so-called Reformers having vainly assumed the mask of teachers of Christian truth, and of the Catholic Church on the contrary having most justly asserted her claim to be its one sole unvarying depositary. In the first of our letters, ch. 2nd, St. Clement declares that heaven is attained “through the efficacy of faith, that is, by deeds of faith. For he who is truly pious performs those works which proclaim his faith; performing them with a lively faith, a perfect faith, a faith in God, a faith which shines forth in good works, so that the Father of all is glorified in His holy one.” (p. 7.) In the subsequent chapter he dwells at great length on the same necessity of our deeds corresponding with our profession: “the name of Christian,” he says, “will not open to you the kingdom of heaven. For whosoever is a Christian in name, yet does not show himself such in his actions, he is not truly a Christian.” The same doctrine our Saint had laid down with equal clearness in many passages of his first letter to the Corinthians, especially in its 34th and 35th chapters. St. Ignatius too, the glory of the

Church of Antioch, and contemporary of our Saint, proclaims this truth almost in the very words of St. Clement: "The profession of faith is not the deed, but that we persevere unto the end in the exercise of faith."*

In the passages we have cited it is easy to trace that necessity of good works, and at the same time their essential connection with faith, which the Catholic Church of the present day so clearly lays down. It is not the mere human action that is meritorious of eternal life, but our actions animated by supernatural charity, and springing forth from faith; precisely as the Council of Trent defines, that "faith is the beginning, the root, the foundation of all our justification." It is amusing to see how Protestant writers, even such as are deemed learned by their brethren, are liable to misrepresent or fall into the grossest errors when they attempt to become exponents or assailants of Catholic truth. John Charles Riehm, in his Theological essay, to which the Academy of Gröningen awarded the prize-medal in the year 1819, thus expounds the Catholic doctrine on Justification: "*Quantumvis benigne de illorum systemate existimes, ita ut in homine justificando requisiverint tantum emendationis initium et virtutis studium, etiamsi ob id homo non justificetur, res tamen, si summam spectes, eodem redit: semper enim tribuitur quoddam, quamvis exiguum, proprio emendationis studio pretium et Christi meritis haud pauca detrahuntur.*" And not content with thus falsifying the teaching of the Catholic Church, he adds: "*Quid, quod eo usque progressus est Thomas Aquinas ut fidem ad salutem necessario requiri negaverit, inquit, 2. 2. q. 2. art. 3. Videtur quod credere non sit necessarium ad salutem.*"† Had this learned Protestant divine turned over a few pages of the same work of St. Thomas, he would have met with other articles, commencing in like manner, "*Videtur quod Deus non existit:*" "*Videtur quod Deus non sit æternus,*" &c., and perhaps he would have thence concluded that, according to St. Thomas and the teaching of the Catholic Church—God did not exist. What a triumph

* See Dublin Review, July 1858, art. 7.

† *Commendatio Theologica, de vindicanda Ecclesiæ Emendatæ super fide salutari sententia.* § 3. p. 17. In *annal. Academ. Gröningen.* an. 1819-20.

this would be for the Reformed brethren! He should, however, have held in mind that the words which thus commence these articles do not present the opinions of St. Thomas, but precisely that opinion which he proposes to himself to combat, and which it is his intention in each of these articles to refute. But, the defender of the *Reformed creed* chose rather to unblushingly put forth as the teaching of St. Thomas the very opinion which St. Thomas expressly rejects and combats; and on these grounds, such teaching too is unhesitatingly imputed to the Catholic Church!

False teachers were not wanting even in the days of St. Clement, and let us now see how vividly he portrays their character. In the 11th chapter of the first letter he says: "they go* around from house to house, not bearing with them the fear of God, and impudent as they are they insinuate manifold errors under the pretence of teaching; affirming to be those things which are not, and becoming negotiators of iniquity in the name of Christ." Again, in the 13th chapter he says: "they pretend to be children of light, whilst they are not light but darkness, and their end is in destruction;" and elsewhere he announces the divine chastisement which awaits them: "let us dread the judgment that awaits such teachers; for terrible indeed will be the judgment of those who, lyingly, assume to themselves the mission of Christ."

We next meet with individual reference to the Holy Sacrament of the Altar. In the 2nd letter, chap. 6th, St. Clement declares that the Holy Sacrifice should not be offered up in places defiled by pagan impiety. The word *Shamesh* is that employed in the Syriac text, it being the liturgical expression of the Syrians to denote the Sacrifice of the Mass: the same word is used Act. xiii. 2, as corresponding with the *λειτούργειν* of the Greeks. Another of the Syriac liturgical phrases is met with in the second chapter of the same epistle, when the holy Pontiff writes: "Should the Brethren compel us to await with them to celebrate the vigil, and announce to them the holy Word of God, and offer sacrifice." Here the word *aved* is used, which corresponds to the Latin *facio*, and the *ποιέω* of the Greek liturgy. The whole of this passage may perhaps be illustrated by what Tertullian writes of the early Christians: "Eucharistiæ Sacramentum, omnibus mandatum, etiam antelucanis coetibus nec de aliorum manu

quam præsidentium sumimus.”* St. Clement elsewhere, (in 1st letter, ch. 5th.) pointing out the end to which virgins should aspire, namely, “to receive the crown of light, and be led triumphant through the heavenly Jerusalem,” commemorates the virtues which they must practise in order to attain this end, and presents the Blessed Eucharist as the special means which God has granted to strengthen them in attaining it: “Conquer the desires of the flesh,” he says, “conquer the world in the spirit of God; despise the vain things of this transient life, and vanquish Satan through Jesus Christ, who strengthens you by His heavenly teaching and by the godly Eucharist.” How forcibly these words present to us the blessed fruits of this sacrament!

Another important subject of these Letters, and one which cannot be omitted is, *the perpetuation of miraculous gifts in the Church*, and of the supernatural grace which was granted to the faithful to expel by their prayers and exorcisms the evil spirit from those who were possessed. St. Clement speaks at great length on this subject; indeed the whole twelfth chapter of the first letter, from page 57 to 65, regards this gift of God, whilst in other passages incidental allusion is also made to it. A few words extracted from the first-mentioned chapter will suffice to convey the sentiment of the whole: “This too behoveth the Brethren in Christ, and is good and proper in them, that they should visit those who are assailed by evil spirits, and with those prayers which are pleasing to God, pray for them, and with effect make the adjurations over them. In fasting and prayer let them exorcise them. By your fasting and prayers, and continual watchings and other good works, mortify the deeds of the flesh in the power of the Holy Ghost: he who thus acts becomes a temple of God: he will cast out demons, and God will be with him.” The frequency of this heavenly gift in the primitive Church is attested by many of the other earliest Fathers. St. Justin frequently commemorates it, and Tertullian more than once makes it the principal of his arguments against the pagan persecutors; thus, for instance, in the 23rd chapter of his *Apologeticum* he writes: “Edatur hic aliquis sub tribunalibus vestris, quem dæmone agi

* De corona militis. cap. 3.

constat. Jussus a quolibet Christiano loqui, spiritus ille tam se dæmonem confitebitur de vero quam alibi Deum de falso;" and again: "quis vos ab illis occultis et usquequaque vastantibus mentes et valetudines vestras, hostibus raperet? a dæmoniorum incurisibus, dico, quæ de vobis sine præmio, sine mercede depellimus."

It will hence perhaps surprise the reader to learn that one of the weightiest arguments advanced against the genuineness of these Letters of St. Clement is precisely "the use in them of the words *ἐξορκισμος* and *ἐξορκιστής* which were unknown to the early Church.* Indeed, as the Syriac version alone of these Letters is extant, we may easily see what a hardihood of assertion is required to make so bold a statement in regard of the original text. It is true the Syriac word *awmi* expresses the same idea which is involved in the Greek *ἐξορκισμος* but we can only conclude thence as to the *ideas* which were found in the original Greek letters, and not as to the individual words which were employed. Had our adversaries, however, visited the Catacombs of Rome and explored the monuments of that church so enriched with martyrs and so "beloved of God," they would have seen more than once recurring on its sepulchral loculi, these self-same dreaded words, which, it is so boldly said, were unheard of in the early Church. For instance, in the cemetery of St. Callixtus, the slab of—Paulus Exorcista Depositio Martyris—and another is cited by Gruter to—Januarius Exorcista. But should our adversaries be afraid to intrude amidst these dwellings of our martyred forefathers—the witnesses to early Catholic faith—perhaps they might at least open one of the most trite works of the ancient Christian writers, that is, the famous Dialogue of St. Justin Martyr with Trypho; and in it they will find that very word *ἐξορκίζειν* employed to designate the expelling of the Demon from those who were possessed.

It is now time to bring this article to a close. But we cannot conclude without calling attention to the zeal with which the study of Oriental literature is pursued under the guidance of Dr. Beelen in the University of Louvain. His untiring labours have in a few years won a high

* Venema *Epistola ad Cannegieter* § v. p. 104 seqq.

position for the exegetical school of that University, and the establishment of a Hebrew and Syriac press, as well as the many works which have been given by him to the public, sufficiently attest, not only his learning and ability, but also the manly energy and vigour with which he has applied to these pursuits, and which have lately won for him the high eulogy of the reigning Pontiff, our holy Father, Pius IX.

ART. IV.—1. *A Letter to the Earl of Shaftesbury on the present state of the Laws which regulate private Lunatic Asylums.* By E. J. Seymour, M.D. London: Longmans, 1859.

2.—*The Letters of Dr. Mayo and Dr. Winslow in the Times, Dec. 29th and Jan. 1st.*

3.—*The Examiner, Dec. 25th, 1858.*

IT has been made a reproach against the Papal government that its system of judicature and jurisprudence is too ecclesiastical. But the more deeply we study the laws and science of justice, the more clearly do we come to see that it must be based upon moral theology. A shocking and alarming illustration of this is afforded by the present aspect of our criminal judicature in consequence of the practice which has come almost to a doctrine, of acquitting the very worst of murderers on the score of insanity. It seems as if wrong notions of sin had destroyed the true idea of moral responsibility. Or as if everything were made to conform to a species of *materialism*. And the disposition that has arisen in the popular mind to refer crime to mental incapacity rather than moral depravity is becoming so rooted, that it will soon be found difficult to convict the most atrocious murderer. For, from the very atrocity of the crime our juries infer insanity. For this there is not the least foundation, either in our own common law, or in the law of any European state. And therefore, the fact that the notion has

arisen and taken such deep root, is a remarkable illustration of a change in the national mind.

Our old law writers liken lunacy to infancy;—that is, they represent it as a state in which there *may* be no criminal responsibility; the test of its existence being—*consciousness of crime*. Thus in Lord Hale, cases are put of children under fourteen (above seven) convicted and executed for murder, because the circumstances of their conduct (as in hiding the body, &c.) showed that they knew they were doing wrong. The degree of mental capacity, it is obvious, has nothing to do with such a test. Otherwise the question must arise in cases of ignorance as well as of infancy or lunacy; and we must have an enquiry in each case whether a person has been duly instructed. The test, in cases of lunacy, as well as of infancy, was always considered to be this—whether the lunatic knew he was doing wrong.

The first great authority on this subject in the law of England, is that of Lord Hale, who laid it down thus: “There is a partial insanity and a total insanity. The former is in respect to things; and some persons that have a competent use of reason in respect to some subjects, are yet under a particular *dementia* in respect to some subjects or persons. Or else it is partial in respect of degrees, and this is the condition of very many, especially melancholy persons, who for the most part, discover their defect in excessive fears and griefs, and yet are not wholly destitute of reason. And this partial insanity seems not to excuse them in the committing of any offence for its matter capital; for doubtless most persons that are felons (murderers) of themselves are under some degree of partial insanity when they commit the offence. It is very hard to define the indivisible line that divides perfect and partial insanity; but it must rest on circumstances to be duly weighed and considered both by judge and jury.” Not, be it observed, as if it were a mere question of medical science, like bodily infirmity. So as to the law of Scotland, which in this respect differs not from that of England, and as it is founded more upon the civil or Roman law, this conformity goes far to show that it is morally sound. “To amount to a bar to punishment, the insanity must have been of such a kind as entirely to deprive the prisoner of the use of reason as applied to the act in question, and the knowledge that he was doing wrong in commit-

ting it. If, though somewhat deranged, he is yet able to distinguish right from wrong in his own case, and to know that he was doing wrong in the act which he committed, he is liable to punishment." In one old case the judge said that "it is not every frantic humour of a man, or something unaccountable in his actions, which will show him such a madman as to exempt him from punishment," which is quite in accordance with the authorities before cited.

The principle, it will be observed, is, that the question is to be determined upon all the facts and circumstances: not as a mere question of physical health, but upon the whole acts and conduct of the man; his capacity to be practically tested by his doings and dealings with other matters. Every one may remember the case of Earl Ferrers, who in the reign of George II. was tried before his peers and convicted of the murder of his steward, and executed. That was a remarkable case in which the true principle of jurisprudence was strongly tested, but unflinchingly applied. The Earl had locked the steward in a room with all the appearance of great resentment, and shot him.

Several witnesses proved that the uncle of the Earl was lunatic; and it appeared that several of his relations had been confined as lunatics, yet the defence did not avail, and he was unanimously found guilty by the House of Lords. This, then, was a solemn judicial decision of the highest tribunal in the country, (in which there sat the great Lord Mansfield, and the illustrious Lord Hardwicke,) and the case deserves particular attention, because it is conceived to show very clearly the groundlessness of the acquittals which have of late years taken place, and the gross departure from law which they involve. Thus, it having been distinctly proved that several of the prisoner's relatives had not only been deemed lunatics, but actually confined as such, and the House nevertheless having convicted him—this case is a solemn judicial affirmation that a prisoner cannot on *that* ground set up the defence—and that it must be distinctly shown that *he himself was insane*. Otherwise the monstrous result would certainly follow that no man can be convicted of murder; for assuredly such is the spread of lunacy in this country, and such the number of a man's collateral relations, (amounting, as Blackstone points out, in the

course of a few degrees, to scores or hundreds,) there is hardly any one of whom it may not be said that there had been lunacy in some connections of his, more or less distant; and it is known that these hereditary traits or infirmities often reappear or disappear, slipping one generation and appearing in another, in a manner most unaccountable. In the case of Earl Ferrers, who did not succeed his father, but his uncle, in the earldom, it was proved that his uncle, and also an aunt, had been under care or confinement as lunatics. The brother of the prisoner, a clergyman, deposed that he sometimes fell into violent passions without any adequate cause, on which the Attorney-General pressed him thus: "Do you deem every man that is transported with anger, without any adequate cause, to be a madman?" The witness was obliged to answer: "A man may be transported to fury without an adequate cause, but yet be no madman;" an answer rather equivocal, for a man may be no madman, and yet be a lunatic. But probably that was a slip. Another witness who said that he "had known the Earl from his cradle, and considered him a lunatic," was asked by a noble lord, "Did you ever perceive him so far deprived of his senses as not to know that robbery or murder was an offence against the law of God and man?" The witness was obliged to answer, *No*. And no doubt that answer hung the Earl. Dr. Monroe, the physician, was called in his favour, but to no avail. The House of Lords did not attach such weight to the *dicta* of physicians feed to give evidence for a man, as judges or juries have been disposed to do in later times. The Doctor said the symptoms of lunacy were "unconscious fury," "jealousy without cause," &c. He was asked, "whether lunatics, when they are angered with *or without* cause, *know what they are doing*?" The Doctor's answer was, "*Sometimes as well as I do now*," which the prisoner himself showed in his own person. For he defended himself with incredible shrewdness, and that no doubt helped to condemn him; but in real truth it was putting in a more remarkable and striking light, the absurdity of the idea that lunatics are necessarily always irrational. It is very observable that the Earl himself said, "If I could have controlled my rage, I am answerable for the consequences of it; but if I could not, and it was the mere effect of a distempered brain, I am not answerable." But what

decided the case was the evident deliberation and *design*. The Earl, after a certain event, threatened to shoot his poor steward, locked him in a room, and wanted *him to sign a paper*, and on his refusal shot him. "That was relied on by the Crown counsel as showing that if he knew enough to design the act of homicide for a *purpose*, however unreasonable his malice may have been, he must have known enough to make him answerable." Moreover it was proved that the ill-will to the steward had a supposed *cause*, however unreasonable, viz., his imagined concern in the passing of a private act of parliament affecting the Earl's estates; for from that time his frantic rage against the man displayed itself.

This raises the important question intimately connected with the one we are considering, viz., how far evidence of facts raising an inference of *motive* in the prisoner, is admissible. The question is often one of the most difficult in the criminal law; but at all events, in Earl Ferrers' case the evidence alluded to was given, and it was doubtless deemed decisive, to show that however disordered the prisoner's mind was, and however subject to material fits of passion and frantic rage, nevertheless he had enough use of reason to put things together in his mind—to draw inferences, however unreasonable, leading him to a certain act of revenge—to plan that revenge—to *know* that he was going to kill the person he disliked, and deliberately and designedly to do it. And this the House of Lords deemed murder. The Solicitor-General urged these topics thus: "The Earl *gradually wrought himself up* to a resolution of destroying Mr. Johnson." "After the passing of the act he gave marks of resentment. He showed that he *intended to shoot* Johnson. Can there be clearer proof that the Earl weighed the motives of his action? That his conduct was not absurd, but rational and consistent? The same crime has been committed in all ages, upon grounds as slight, by men who never thought of setting up the defence of insanity." "Motives like these suggested might easily and naturally work upon one whose course of life betray so many marks of un-governed passion, though the same motives would not have influenced tempers less susceptible of violence than his own."

So the House of Lords thought. And that, it is conceived, is the true view of such cases. It shows that men-

tal infirmity, merely arising from moral vice, and the long indulgence of ill passions, cannot be an excuse for crime, or the very malignity of a man may be said to destroy his responsibility, and the greater the depravity the easier the immunity.

There are some things worthy to be noted in this memorable case, in contrast with those cases of a similar character which have occurred in our own times. And above all it is to be noted that, though the wealth and position of the Earl were such that of course he could have procured any number of professional men, of the highest standing, to attend him, and examine him, or to attend the trial, and then (such of them as could do so,) testify their opinion of his insanity, either from their own examination, or from the facts deposed to at the trial; no such course was even attempted, and if it had been, it is plain from what passed at the trial it would not have been allowed. For the only medical man who was called (Dr. Monroe) had known the Earl *long before the act*, and even he was rigidly confined to the symptoms of insanity, as a matter of fact; and when it was proposed to ask him his *opinion* on the *particular case*, the *Lords would not allow of it*. And it is to be observed that the Earl, although counsel could not in those days be *heard* on his behalf, *had the full advantage of counsel*, in advising him, and (if necessary) in arguing points of law; and they never ventured to advise him to press the admissibility of the kind of evidence alluded to on the particular question and which was rejected.

In the next place it is to be observed that not only did they not venture even to propose to call any witness who had not known the Earl *before the act*, but the law officers of the crown directed their cross-examinations to this point, and pressed it with fatal effect in reply, whether before the act he had not been allowed to, and had not in fact *managed his own affairs*, and shown sufficient sense to do it. The questions they asked were such as these: "Did he ever give an irrational answer? Did he manage his affairs? Was it easy to impose upon him? Did he talk like a fool on his own affairs? Did he express dissatisfaction or resentment on such and such a matter, and was that expression of feeling such as to show that he was sensible of the nature of the matter he spoke of?" The answers to all these questions were contrary to the theory

of insanity. And surely these are tests of a practical and sensible character, which it would be impossible to doubt. And accordingly attempts were made by the members of his family to prove that they had *thought* of taking out a commission of lunacy against him. But they *had not done so*.

It is true that witnesses were called who proved that his conduct at times was erratic and frantic, that he was called the 'mad lord' in the country, and that his friends and relatives avoided him as lunatic; but when his confidential solicitor, who was one of the witnesses, was pressed by the Attorney-General thus: "Did you, on your conscience, upon the whole, think him insane, or a proper subject to be under the care of a physician, or the Court of Chancery?" he answered: "I should think a commission of lunacy could not have been taken out against him, because he was insane only at particular times, and in particular instances. At the times I have seen, I am sure that if a jury had been to enquire touching his sanity, they would have found him a lunatic." But then the Attorney-General at once disposed of this by eliciting that the solicitor transacted business with him, and never advised the family to have him sequestered. And one noble lord asked the significant question, "Did you ever see him incapable of judging between a moral and an immoral act?" to which the answer was, *No*. And at once it will be observed, that all the evidence admitted was as to his condition of mind *before* the crime alleged. It may be interesting to have Lord Brougham's commentary on Ferrers' case.

"It was proved that he was occasionally insane, and incapable from his insanity of knowing what he did. That was a great deal more than not knowing right from wrong, or not judging the consequences of his actions, for he did not know what he was about occasionally; yet, as it was proved that when he committed the offence, he had capacity sufficient to form a design, and knew the consequences; he was found guilty and executed, not because he knew right from wrong, or could distinguish good from ill, but because *he knew what he was about and could form a design*. There was evidence that his friends were going to take out a commission of lunacy on the Earl, but yet he was executed."

It will be observed that Lord Brougham states it as his view that the Earl was proved to be occasionally

insane. That is the judgment of that noble and learned lord upon the evidence, and it is a very valuable judgment and greatly enhances the importance of the case, because it amounts to a judicial affirmation by the highest tribunal, that a person subject to insanity may be convicted of murder, if not proved insane at the time he did the act, and *in the very doing of the act*.

That was considered to be the law upon the subject even in the dark days of George II., probably the darkest and most irreligious in our history. They would not listen to the doctrine that crime was merely a proof of insanity, as we have done.

The case of Hadfield, tried a quarter of a century later, for the attempt to murder George III., was the first modern case which directed attention to the question. The case was tried "at bar" before the full court, and the prisoner was defended by the illustrious Erskine. Yet *he*, the prisoner's advocate, only ventured to argue to this extent: "When a man is labouring under a delusion, if you are satisfied that the delusion existed *at the time of the committal of the offence, that the act was done under its influence*, then he cannot be considered as guilty."

To that extent the doctrine was admitted by the Court, and as the Crown could not answer the evidence of insanity existing at the time, the prisoner was acquitted. But observe, it was proved that Hadfield had received a wound in the head, which *might* lead to insanity, and not merely so, but that it *did* produce insanity, and that he had been discharged from a military hospital as insane. Nor was that all. It was proved that three days before the act he had fancied himself God, and that within a few hours of the act in question he had attempted the life of an only child, an infant, whom he had tenderly loved. So here again, insanity was not inferred from the act in question, but proved from facts which had *before* occurred; and above all that he had been put under restraint as insane, and had committed another act which was deemed insane, before the one of which he was accused, and which had no connection with it. Thus we see the law as laid down in Ferrers' case, adhered to and upheld.

In 1812 occurred the case of Bellingham, who, it will be remembered, shot Mr. Percival at the door of the House of Commons, and was tried, convicted, and executed for murder. It appeared that the prisoner had entertained a

groundless notion that the minister had injured him, and denied him redress, and it was attempted to make out this was an insane delusion. But this would not do then. And the Chief Justice Mansfield, (not, of course, Lord Mansfield,) told the jury,

"There is a species of insanity where people take particular fancies into their heads, but that is not a species of insanity which can excuse any person who has committed a crime, unless it so affects his mind at the particular period when he commits the crime, as to disable him from distinguishing between good and evil, or to judge of the consequences of his actions." "The question is whether you are satisfied that the prisoner had a sufficient degree of capacity to distinguish between good and evil, and to believe that he was committing a crime when he committed the act, in that case you will find him guilty."

They did so, and he was executed. There was not the least hesitation, nor relenting. The defence of insanity was set up, but would not be listened to. Bellingham was a broker, who had sustained losses which he fancied the government was bound to redress, and his memorials had been disregarded. There was, therefore, as in Ferrers' case, a foundation in fact for resentment. Whilst he lay in prison the late Mr. Wilberforce went to see him. He acknowledged that it was a most lamentable occurrence, deplored his victim's fate, declared that it grieved him, and when asked, "Why then did you kill him?" the answer was, "Oh, that I could not help; it was inevitable, I felt I must do it." This was after conviction.

Now it is remarkable that many other atrocious criminals have, when apparently they had no motive for the statement, and when certainly it could not affect their fate, made most solemnly a similar declaration, in some cases stronger still. Thus, in the case of the murder of Mr. and Mrs. Bonar, at Chislehurst, (soon after that of Mr. Percival,) the assassin solemnly protested to Sir Astley Cooper that he had no idea of the deed until a few moments before, when he felt himself in the middle of the night vehemently and irresistibly urged to it.

Nor is there any reason to doubt, but rather, upon Catholic principles, every reason to believe, that these statements may in some cases, probably more or less in all, be true, viz., that there is a violent impulse to do the dreadful deed, proceeding beyond all question from some

foul spirit, urging on the human soul to guilt. But what is that after all but temptation? What is it but the call of every sin? That indeed is the very worst kind of sin, yielding to impulses which must be of the devil. That such impulses should ever be deemed "irresistible," is a singular illustration of the lamentable result of ignoring the existence of grace. And this shows how inevitably we find ourselves in questions of criminal law, brought down to moral theology as the basis of all true views. There are two practical tests, however, which we should think might conduce to just conclusions on the subject; one is, that in cases of *genuine* lunacy the individual is more prone to hurt himself than others; for which reason simulated lunatics often affect to wound themselves. The other—that in cases of pretended lunacy—as in the cases of Bellingham and Ferrers, there is always—if we know all—a real, rational foundation in fact for resentment and revenge—however unreasonable it may be.

In 1812, six months after the trial of Bellingham, a case occurred in which the prisoner had entertained a great antipathy against one Burrowes; there was no foundation in fact for the antipathy, at least so far as was known. And there is often the fallacy in such cases, which assumes that, because no reason or motive for the crime is proved, therefore the crime was irrational, while all the while there may be some secret cause of hatred or lurking thirst for revenge, undiscoverable, but perfectly rational, arising from some long concealed, long cherished and on that very account more deadly and malignant animosity. However, in this case no such cause was proved, and without apparent cause but with the utmost deliberation, the prisoner loaded and levelled his gun and shot Burrowes. The defence set up was insanity: and about a month before he had been proved a lunatic under a commission *de lunatico inquirendo*. The learned judge, the late Mr. Justice Le Blanc, laid the law down thus:

"It is for you—the jury,—to determine whether the prisoner, when he committed the act, was, or was not, incapable of distinguishing right from wrong; or whether he was under the influence of any delusion with respect to the prosecutor, which rendered his mind at the moment insensible of the nature of the act he was about to commit: since, in that case, he would not be legally responsible for his conduct. On the other hand, provided you should be of opinion, that when he committed the act, he was

capable of distinguishing right from wrong, and was not under the influence of such a delusion as disabled him from distinguishing that he was doing a wrong act, he is answerable to the laws of his country, and guilty in the eye of the law."

It is clear that the effect of this was; did the prisoner, when he did the act, mean to kill, and know that what he did was wrong? The jury thought that he did; and he was found guilty and executed. Baron Alderson said in a subsequent case of the kind that this was "barbarous." Why so? It was the case of Bellingham over again; except that in the one case we knew the foundation, in fact, for resentment; in the other, it was to be perceived from the deliberation and the design and the existence of resentment.

The law is, that he who slays another must shew why he did it. And instead of presuming insanity from a crime of which we do not know the foundation or the motive, we should rather presume the motive from the act. Two cases were afterwards tried with very different ideas and results, and they well illustrate the fallacy likely to arise in such cases. In one, tried before Mr. Justice Park, the prisoner—indicted for the murder of his grandfather—was defended on the ground of insanity, and though there were no proofs of previous acts of insanity, the jury inferred it from the circumstances of the case. That was the first of the long series of cases we have since had, in which, contrary to the clearest law, juries have inferred insanity merely from the very depravity of the deed. In another case tried before Lord Lyndhurst, that great lawyer told the jury, on the contrary, that they must be satisfied, before they could acquit the prisoner on the ground of insanity, that he did not know when he committed the act, what the effect of it, if fatal, would be with reference to the crime of murder.

In the case of Oxford, tried for shooting at the Queen, the law was laid down by the Lord Chief Justice, (Denman,) assisted by the late Mr. Baron Alderson, and by Mr. Justice Patteson, to the same effect as in previous cases, viz., that if the prisoner, at the time of the act, was labouring under such disease of the mind as not to know whether he was doing right or wrong, in that case he was not a subject for a criminal charge. "The question in such a case is, whether the prisoner was labouring under that species of insanity which satisfied the jury that he was

quite unaware of the nature, character, and consequences of the act he was committing; in other words, whether he was so under the influence of a diseased mind that he was really unconscious at the time that he was committing the act, that it was a crime." The evidence in that case was peculiar, and reminds one of the Carbonari or secret societies in Italy. The prisoner was proved to have purchased pistols and bullets, and to have loaded the weapons with which, twice over, he deliberately fired at the Queen. At his lodgings were found powder, bullets, a black crape, a sword and scabbard, &c., and a pocket-book, containing papers which he said he had intended to destroy before he went out. Among these was a paper headed "Young England," and setting forth certain "Rules and Regulations," as that every member must be provided with a brace of pistols, &c., and take the oaths of allegiance to the cause. There was "a list of principal members, fictitious names," and then followed such names.

On the part of the prisoner several witnesses, relatives and connections of the family, were called, to prove the state of mind of the prisoner's grandfather. They all stated that he was, in their judgment, of unsound mind, but most of the instances they gave were rather instances of great violence of temper. However it appeared that he had a complaint in his head, and used to call himself the Pope of Rome. The prisoner's mother was called to prove insanity in the *father*, both before and after her marriage with him, and she stated that the prisoner's brother was an idiot. There could not well be stronger evidence of insanity in the family.

But the House of Lords had long ago held that this would not do, and that evidence offered to show that the prisoner was insane, was rejected; and here was the weakness of the case for the defence, for the facts shown tended to prove depravity rather than insanity, as that he struck his mother, and was sullen, &c. Several eminent medical men were called for the defence, and this appears to have been the first case in which the plan was resorted to of feeing men of eminence in the profession to come and testify to a prisoner's insanity. Lord Denman seems to have viewed this system with suspicion, for he said in his charge, "It may be that medical men may be more in the habit of observing cases of this kind than other persons, and there may be cases in which medical testimony may

be essential; but I cannot agree with the notion that moral insanity can be better judged of by medical men than by others." And then the Lord Chief Justice laid the law down as above quoted. But in the course of his summing up he dropped a sentence in which perhaps may be found the germ of that noxious doctrine of uncontrollable impulse which has been developed since with such fatal effect. His Lordship said, "If some controlling disease was in truth the acting power within him, which he could not resist, then he would not be responsible." And no sufficient care seems to have been taken to guard against its being supposed that this "controlling disease" might be a mere moral disease, arising from habits of indulged passion, or cherished malignity of disposition.

Taking advantage of this fallacy, and of the precedent afforded by Oxford's acquittal, (which perhaps proceeded partly on political or loyal sentiments,) Sir Alexander Cockburn, with the aid of his powerful eloquence, gained the acquittal of the murderer Macnaghten, who so foully murdered Mr. Drummond on account of some imagined slight. It is curious that this accomplished orator should have commenced his fine displays of advocacy with a miscreant like that, and have ended with the defence of a man like Dr. Newman.

The case of Macnaghten's was thus summed up by Lord Brougham, in the House of Lords. He had shot Mr. Drummond, meaning to kill Sir R. Peel:

"The accused went four or five times to Sir R. Peel's house, for the purpose of ascertaining who Sir R. Peel was. He formed his conclusion that a certain individual was the person in quest of whom he went, because he saw him four or five times come from the house, and go to what he knew to be Sir R. Peel's house. The man drew the conclusion, which any sane man would have drawn, having taken the steps which any sane man would have taken, to inform himself on the subject. The man no doubt was mistaken, but so might any sane man be. The man having determined to kill Sir R. Peel, took exactly the same steps to accomplish his purpose that a sane man would have done; he purchased the pistols, and to make sure he purchased two; he used powder and ball, charging both the pistols, as anybody might do who wanted to kill; he then went and waylaid his victim, firing one pistol so near that it hit or grazed his victim. Not satisfied with that, he did just what any other person in his senses would have done who wanted to make sure of his bloody work, and fired again, or was going to fire

again, when he was seized. All this was like the conduct of a rational man, in the full possession of his senses."

At the trial, medical witnesses, who had not seen the prisoner before the trial, and had only been present and heard the evidence of other similar witnesses, were allowed to be asked what, upon the facts proved, was their opinion as to his sanity at the time of committing the act. It was upon the answers to these questions that the result probably turned; and it will be observed that the evidence was clearly contrary to the general rule of law, and was open to the animadversions made upon it by the late Lord Denman, in Oxford's case. The practical effect was to substitute the medical witnesses for the jury, and to overbear the latter by the apparent weight of their authority, although, as the Lord Chief Justice himself had observed, they were no better judges (in law) of the fact of insanity at a particular time than the jury, and could only properly offer their evidence as to the causes or the symptoms of insanity, leaving to the jury to determine whether those causes had existed, or those symptoms had been manifested in the particular case. And the evidence was open to this far greater and more serious objection, that these medical witnesses were in reality paid for giving such evidence. That is, they received large fees for consultation, and then it being ascertained that their opinions would be favourable, they were summoned as witnesses, and were allowed to be examined, not merely as to matters of fact within their professional knowledge and experience, but also as to their judgment on the facts proved in the particular case, the result of which, of course, was to lead the jury to hesitate in exercising their own judgment in opposition to that of such apparently skilled witnesses; whereas in truth, as Lord Denman pointed out, although they might have more experience in the symptoms of insanity in other cases, that did not make them better able to judge as to the probability of insanity in the particular case at the time of committing the particular act.

The acquittal of Macnaghten for the murder of Mr. Drummond, on the ground of insanity, at the Central Criminal Court, in 1843, gave rise to a discussion in the House of Lords, and questions were submitted to the judges, to elicit their opinion on the subject, in order to allay the alarm and apprehensions which had been ex-

cited in the public mind in consequence of that acquittal. So great was the sensation it created, that the next day after the acquittal, it was made the subject of discussion in the House, and Lord Brougham said, that unless some course were taken as to the state of the law respecting the crimes of persons alleged to be labouring under partial insanity, he should feel it to be his duty to call attention to the subject. Lord Denman also said that "the matter required the most careful consideration." Lord Campbell declared that "persons labouring under partial insanity were not relieved from responsibility, unless it was proved that insanity *existed at the time*, and might be duly considered as the immediate cause of the criminal act, there was no immunity from punishment." By which, of course, the noble and learned lord had meant, no *legal* immunity. The Lord Chancellor, Lord Lyndhurst, said, "he had already turned his attention to the subject, with a view to remedy the evil, and intimated that he had resolved to consult the Judges." It happened to the writer to be present when the Lord Chancellor, in the course of a week or so, again called the attention of their Lordships to the subject, in a speech replete with his usual ability, and exciting a most painful interest. "The circumstances connected with the late trial," (said his Lordship,) "have created a deep sensation amongst your Lordships, and also in the public mind. I am not surprised at this. A gentleman in the prime of life, of a most amiable character, incapable of giving offence, or of injuring anyone, was *murdered* in the streets of the metropolis in open day." (It will be observed that the Chancellor used the word '*murdered*.') "The *assassin*" (here again the term used denoted the conviction of legal guilt,) "was secured; he was committed for trial; that trial has taken place, and he has escaped with impunity. Your Lordships will not be surprised that these circumstances should have created a deep feeling in the public mind; and that many persons should have been disposed to think, that there is some great defect in the laws of the country with reference to the subject." His Lordship then proceeded to argue that there was *not*, and that the fault lay, not with the law, nor with the judge, but with the *jury*. The case, be it observed, was not one of general and complete mental aberration, but of that description of insanity which consists of a delusion directed to one or more persons or

subjects. But the Lord Chancellor showed that the principle to be applied was the same, the test being whether the party knew, at the time, the nature of the act he was committing. And having shown that this was the test applied by the law, he argued that no new measure would be of any use, and, by implication, of course threw the blame upon the jury, where it certainly lay, and where it has lain in many cases since. The Lord Chancellor went on to say: "I have heard it said the object of punishment is the prevention of crime; we do not punish by way of retribution, or in a spirit of vengeance upon guilt, but to prevent others from committing a similar error. Therefore, it is said that although a man is under an insane delusion at the time he commits the offence, yet knows what will be the *effect* of the act he commits, i.e. if he knows that if he fire a pistol it will kill a man, that is a supposed reason for carrying the criminal law into execution against him, to prevent others from committing the same crime."* But the Lord Chancellor denounced that view, and he cited it as wholly untenable in law.

"We punish, it is true, to deter others from committing similar offences. But do we punish persons incapable of committing the crime for which we punish? The argument is a logical absurdity. You punish the dog; granted: but not as an example to other dogs." No: but surely here was a logical error. We punish the dog; not to deter others, it is true, but to deter *himself* from the commission of the same crime, because we don't happen (except in *very extreme cases*,) to punish dogs capitally. But the argument is as good for one dog as for another, and we believe dogs have sense enough not to do what they *see* other dogs punished for. But, however, it is not necessary to enter into that question further; undoubtedly the law requires that the lunatic should know that he was doing what was wrong, as well as that he should know what would be the effect of what he did. But it requires no more. To require more would make criminal responsi-

* There is, however, so far foundation for this view in fact, that those who have the care of lunatics testify, that they are quite sensible to threats, and can be deterred from violence by the fear of punishment; indeed it is a remarkable fact that when homicides by lunatics occur in lunatic asylums, alas! the murders that there take place are perpetrated *upon* lunatics.

bility depend upon moral light, or even the degree of grace which a man possesses. That of course cannot be argued by any moralist, for it would do away with criminal responsibility altogether; since no man commits a crime except through loss of light and grace. But he loses light and grace by sin, and one sin cannot excuse another. There is a painful question indeed how far a state of society, in which light and grace are practically never brought to men at all, so that they cannot be said to have lost what they never possessed; the light and grace of baptized and instructed Christian souls, how far such poor creatures should be punished. That is a fearful question, raising great questions of the day, and going deep down into the very foundation of society and the very basis of social law. And perhaps it is only to be solved by the very process by which the question of lunacy is practically solved, viz., by making the test to be whether the man knows the effect of his act, and knows that it is wrong. In cases of murder—and none others are now capitally punishable—let us hope that few, if any, are to be found who don't know that to kill a fellow creature is wrong. And that was the test laid down by Lord Chief Justice Tindal, in *Macnaghten's case*, and approved of by the House of Lords:—"Whether at the time the act was committed the prisoner had not that competent use of his understanding, as not to know what he was doing in respect of the act itself, that he was doing a wicked and wrong thing, or whether he was not sensible at the time he committed the act, that it was contrary to the laws of God and man; if he was not so sensible he is not responsible." And Lord Lyndhurst dwelt upon the fact that the Crown counsel did not call any witnesses to contradict the theory of insanity. But then that was doubtless because they felt that if such evidence—the evidence of medical men who have not known the prisoner before the act in question—were admissible at all, it could not successfully be combatted, because juries are *told* to give the accused the benefit of any doubt. And the real root of the evil was this; that the evidence was utterly inadmissible. The Lord Chancellor was satisfied that the Judges were not to blame at all events. Lord Brougham animadverted with great severity on the evidence of the medical witnesses, and declared what no one has ever doubted or disputed, that in principle, and according to

general rules, the questions allowed to be put and answered by them, as to their judgment on the effect of the evidence were *inadmissible*. To those questions and answers the noble and learned Lord, and the Judges, attributed the result of the trial. How indeed could it be expected that the jury would incur the responsibility of sentencing the prisoner to death in the face of a host of medical witnesses, that he was insane at the time he did the act, and could not have known what it was he did, or that it was wrong to do it? This was virtually substituting the *prisoner's paid witnesses*, or rather advocates, for the jury! No wonder that he was acquitted. But the acquittal shocked and staggered all England. Lord Brougham said emphatically, "if the perpetrator of the homicide knew what he was doing; if he had taken his precautions to accomplish his purpose; if he knew at the time of doing the act, that it was forbidden by law, that is the test of sanity and responsibility."

Lord Campbell agreed in this, and disapproved of the conduct of the Lord Chief Justice stopping the case, and reprobated "the impression on the public mind that, if a certain number of medical witnesses, generally called 'mad doctors,' came into court, and said that in their opinion the prisoner was insane when he committed the act, the trial was to be stopped." The noble and learned lord spoke with his usual shrewd sense and sagacity on the subject. "The question of the prisoner's sanity at the particular time is not to be put to them, it is a question for the jury, not for the witnesses. It would be most dangerous if it were to go abroad that the mere expression of a medical man's opinion must be taken as conclusive. A very distinguished medical practitioner, Dr. Haslam, said, not only that there were many who were more or less insane, or that all of us had been insane at one period of our lives, but that we were *all* insane. The public mind has been inundated by medical books, calculated very much to mislead juries in cases of future trials of a similar kind. The books speak of what they are pleased to call a *homicidal propensity*, and contend that no man under the influence of such a propensity should be held liable for his acts. Dr. Alison said, a mad person may be aware that murder is a crime, but may believe that a particular homicide is no way blameable, because he may believe that certain persons have entered

into conspiracies against him, or that some person may be his mortal enemy. Now if this view of the case be at all correct, there is no doubt that a man acting under the influence of unfounded jealousy may murder the object of his suspicion, and afterwards be acquitted on the ground of insanity." Lord Cottenham also spoke of the latitude of definition which medical men were apt to attribute to the notion of insanity. "There was one, (he said,) who said he did not believe that there were a great many persons who had a mind altogether sane. That is the error which medical men are likely to fall into." And there, no doubt, is the mischief and the danger of the modern system.

Of course it was the duty of Lord Lyndhurst, as Chancellor, and head of the law, to defend the administration of justice, and Lord Chief Justices would naturally take the same view. But the keen intellect of Lord Brougham detected the very fallacies which we have alluded to as lying latent in some of the observations of the Judges, and to which are to be ascribed the mischievous impressions since prevalent among juries. "Good and evil," "right and wrong," said that noble and learned Lord, "why these terms themselves are open to the greatest latitude of construction and difference of opinion. If it meant that the lunatic must have known what was the nature of the act he did, and that it was forbidden, that is intelligible; but the more general definitions, as to his knowing that it was wrong, or evil, are open to ambiguity; and confound the degree of intellectual light with the question of moral responsibility.

In consequence of this discussion questions were proposed to the judges, to which that great judge, Mr. Justice Maule, returned answers, and it is interesting to observe how his powerful intellect treated the subject.

"The question put to the judges is, in effect, what is the law respecting alleged crime when at the time of the commission of it, the accused knew he was acting contrary to the law, but did the act with a view, under the influence of some insane delusion, of redressing or revenging some supposed grievance or injury, or of producing some supposed public benefit. There is no law that I am aware of that makes persons, in the state described in the question, not responsible for their criminal acts. To render a person irresponsible for crime, on account of unsoundness of mind, the unsoundness should be such as to render him incapable of knowing right from

wrong. The terms used in the question are not equivalent to a description of this kind and degree of unsoundness of mind. If the state described in the question be one which involves, or is necessarily connected with such an unsoundness, this is not a matter of law, but of physiology, and not of that obvious kind as to be inferred without proof. The manner of submitting the question of fact to the jury, is a matter for the discretion of the judge, to be guided by a consideration of all the circumstances. In stating what kind and degree of insanity would amount to a defence, he should state it conformably to the definition here given."

It will be observed that the answers of Mr. Justice Maule used the general and equivocal phrase "right or wrong," and the Lord Chief Justice Tindal thus remarked upon and explained it. "That mode of putting the question is not so accurate when put generally as when put with reference to the prisoner's knowledge of right and wrong in respect to the very act with which he is charged. If the question were put as to the knowledge of the accused solely with reference to the law of the land, it might tend to confound the jury, by inducing them to believe that an actual knowledge of the law of the land is essential to lead to the conviction. If the accused was conscious that the act was one which he ought not to do, and if that act was at the time contrary to the law of the land, he is punishable, and the usual course therefore has been to leave the question to the jury, whether the party had a sufficient degree of reason to know that he was doing an act that was wrong; and that course we consider is correct. As to delusion, the question must turn upon the nature of the delusion. If the prisoner's delusion was that the deceased had inflicted an injury upon him, and he killed him in revenge, that would be murder."

One of the questions put by the Lords was, "Whether a medical man, conversant with the disease of insanity, who never saw the prisoner previous to the trial, but who was present during the trial, could be asked his opinion as to the state of the prisoner's mind at the time of the commission of the alleged crime, or his opinion whether the prisoner was conscious, at the time of doing the acts, that he was contrary to law, or whether he was labouring under any, and what, delusion at the time?" In his answer Mr. Justice Maule said, "The principle of such a question is open to this objection, that as the opinion of the witness is founded on those conclusions of

fact which he draws from the evidence, and as it does not appear what those conclusions are, it may be that the evidence he gives is on such an assumption of facts as makes it irrelevant to the inquiry. But evidence most clearly open to this objection, and on the admission of which the event of the trial most probably turned, was received in Macnaghten's case, and in others, and the practice of receiving such evidence ought, in criminal cases, to be held to warrant its reception, notwithstanding the objection in principle to which it may be open."

This admits that the evidence is vicious in its character. And, be it observed, such evidence had never been received before Oxford's case; at least in no other reported case. And its reception was opposed to the previous practice of a century, ever since Ferrers's case.

Lord Chief Justice Tindal, however, answered in a similar way to the question. "That the medical man cannot in strictness, under the circumstances supposed, be asked his opinion in the terms stated, because each of those questions involves the determination of the truth of the facts deposed to, which it is for the jury to decide; and the questions are not mere questions upon a matter of science, in which case such evidence is admissible. But when the facts are admitted and not disputed, and the question is substantially one of science only, it may be convenient to allow the question to be put in that general form, though the same cannot be insisted on as a matter of right." Now, as in all these cases, the facts are generally admitted, or the counsel for the prosecution are not in a position to dispute those which are alleged as to the previous history of the prisoner, or his family, and as in criminal cases every indulgence is allowed the accused, this opinion practically came to this, that in these cases the kind of question alluded to is admissible, although wrong in principle. Therefore it is plain the question practically hinges upon this practice, for, as already observed, practically, the cases turn on the medical evidence for the prisoner.

But it will be observed that the Lord Chief Justice said "the question is one of science only"—i.e. of medical science. That sort of evidence the highest authorities have rejected. And there is the root of the whole evil. To show this we have cited the ancient authorities. The moment we admit it is a mere question of science, that

vicious mode of viewing it virtually decides it, and perverts the decision.

If it were a real insanity, some medical men would have assuredly been consulted before the act, and their evidence would be fairly and properly receivable. But in cases of the class alluded to such evidence is not producible, for the very reason that the insanity is pretended. Therefore medical men are for the first time retained to speak as to the prisoner's insanity. Of course they receive fees for attending him, and more fees for consultations. Nor can it be doubted that the affection or the family pride of relatives will render these fees as large as their means will allow. They are like counsel, therefore, retained as advocates. They soon imbibe the spirit of advocates in the case, and these feelings, added to the natural impulses of humanity, combine to warp their judgment. Supposing it favourable, as it mostly is, they are summoned as witnesses at the trial, and under the practice as it exists, the accused has the weight of their great names, and the apparent authority of their testimony, when it is produced.

When it is produced. There is the most important part of the subject. To be produced it must be procured. And how is it procured? Practically by means of money. The evidence is usually that of medical men who have not known the prisoner before the act imputed; nay, often they have not seen him before the trial. At any rate, in cases of pretended insanity, it is obvious that the evidence must be that of medical men, who have not seen him until after the act, for it being pretended, of course there could not have been occasion for medical men to be consulted about him before the act. And this is one of the surest and safest tests of a simulated insanity, that it is set up for the first time after, or about the time of the committing the alleged crime. Therefore recourse is necessarily had to medical men, who have seen him only after the act committed, that is to say, the evidence is only required and offered just in those cases where its very production is almost *prima facie* ground for suspecting simulation of insanity. And hence the murderer is sure to be acquitted, however atrocious his crime, if his friends can secure the testimony of such witnesses.

But supposing they cannot, and of course they cannot unless they happen to have money. And here is the vice

of the system, that it practically operates most iniquitously, and enables criminals with money to escape.

Take the very next case which occurred after Macnaghten, a poor wretch named Higginson, who was tried before Mr. Justice Maule. He was indicted for the murder of his son, a child five years old, by burying him alive. When the witnesses for the prosecution were giving evidence as to whether or not the child might have been dead before he was buried, the wretched creature horrified the court by crying out, "I put him in alive!" This of itself was some proof of insanity, at least as good as what had been received in other cases. And a person who had known him from the time of their being at school together, deposed that he was of "very weak intellect." Two of the officers of the prison gave evidence in confirmation, so far as their own observation had extended. And the surgeon of the gaol, who was called by direction of the judge, stated that "the prisoner was of very weak intellect, but capable of knowing right from wrong." But the wretched criminal had, fortunately for justice, no counsel to make a powerful speech, and above all, no medical witnesses paid to impose their opinions upon the jury. The surgeon who was called was called in the interests of justice, and gave unbiassed evidence, and the judge upon that evidence told the jury that if they believed the prisoner at the time of committing the act knew right from wrong, he was responsible for his acts, although "he was of weak intellect." And the prisoner was convicted and executed. Unjustly, if Macnaghten had been justly excused. But the impression on the public mind was strong that he had *not*. And this no doubt had produced a reaction, but the reaction was temporary. The erroneous notions rooted in the public mind had become too deeply rooted to be soon eradicated, and were strengthened and rivetted by a growing aversion to capital punishment in general.

The main mischief has been, however, in the system of paid medical advocates as witnesses, and in the circulation by these medical men of works calculated (as Lord Campbell truly said) to mislead juries, and to diffuse false ideas about "homicidal propensities," and "irresistible impulses." The two evils have an eventual connection and combined operation. The books prepare the juries to receive the false evidence which the medical advocates are paid to give. The books operate as a kind of advertise-

ment, that the writers are prepared to act as medical advocates and witnesses in such cases. The course is clear when a man or woman with money, or with friends who have money, has committed a horrid murder; it is to retain two or three of these "mad doctors," as they are called, whose preconceived theories of homicidal propensity are known, and have been publicly put forth; they attend two or three consultations, they are summoned as witnesses, and are sure to do their utmost to uphold their own theory, even apart from the natural influence of feelings of advocacy, the more so as it tends to advance their peculiar branch of the profession. It is "in their vocation." And here is another view of the danger. As Lord Cottenham said, "We should view with the greatest jealousy any measure to facilitate the confinement of individuals on the ground of insanity, knowing the latitude of definition which medical men are apt to associate with the idea of insanity." And these "mad doctors," be it observed, have a direct interest in extending this "latitude of construction," and making out as many persons as possible to be lunatic. Indeed, to read some of these works it is hard to know who would be deemed sane according to their depositions. The public have lately had a remarkable instance of this on a commission *de lunatico*, in which a gentleman, who had been confined by medical men as lunatic, was proved and held by a jury to be quite capable of managing his own affairs. Indeed, the state of the law in this aspect of it, the facility for confining persons as insane, is almost as alarming as the other view of it, the facility of impunity to murder, and is indeed of far more general interest, for few commit homicide, but all (who have any money) are open to the "latitude of definition," which mad doctors—keepers of lunatic asylums—give to the notion of insanity. And this raises the very important question whether medical men should be allowed to keep such asylums, or at all events, whether they should be permitted to receive as patients persons as to whom they themselves have advised. Let it be observed that it requires only the certificates of two medical men to justify the confinement of any person for insanity. And it has happened for a husband to be unable to obtain redress for the forcible seizure of his wife, and confinement in an asylum against his will; probably to prevent her exercising some power of appointment in his favour. That even has actually occurred, and the writer

knows of other instances in which persons have been corruptly confined by their relatives as lunatic, in order to prevent their making alienations of property. In fact, while this country was agitated by ideas about the compulsory confinement of inmates in convents, it occurred to us that it would be more useful to direct attention to the compulsory confinement of persons in lunatic asylums. Horrible cases have occurred within the last few years, (one not long since,) of the sufferings they there endure; indeed, it is probably the most harrowing idea of agony of which the human mind can conceive, that of a sane person being confined as a lunatic! Nothing more likely to terminate in real lunacy, as probably it often has. And surely, there is something perilous to liberty in giving any two medical men the power of signing a certificate which may justify the sending any person to be confined in the asylum of one of them, at a very liberal rate of remuneration!

Medical men, keepers of these asylums, have of course the strongest disposition to enlarge, as Lord Cottenham expressed it, the definition of "insanity," and criminal trials afford them ample opportunity of doing so; their works meanwhile diffuse the most positive absurdities upon the subject.

A few years ago occurred a case remarkably illustrative of the result. One Mrs. Brough had savagely murdered her six children, and was tried for the murders. The defence (of course) was insanity; and as her friends were in good circumstances, Mr. Edwin James was retained for her defence; but what was far more important, Dr. Winslow, a medical man who had published works on insanity favourable to the theory intended to be set up, was also engaged in the case. The writer heard at the time that the fees he received for consultations, &c., were larger than those of Mr. James. Certainly his services were of infinitely greater value to the wretched criminal, whom, but for the medical testimony, not all Mr. James' eloquence would have saved. But there was another kind of advocacy far more powerful than that of the avowed advocate; it was the evidence of the medical advocate, coming forward apparently as a disinterested witness, really with all the spirit of the advocate, and something more, with all the anxiety to support a theory, with all the vanity of an author, with all the interests of a professional vocation at stake. Dr. Winslow, for instance, came for-

ward in the double character of writer on the subject, and as keeper of a lunatic asylum, claiming therefore all the credit due to science, to study, and to experience. His theory was homicidal impulse, irresistible inclination to homicide. There was not an atom of evidence to rest a case of insanity upon in the mind of any rational man, disinterested and unbiassed. The writer was present at the trial, and watched it carefully. The prisoner had never been deemed to be insane, never treated as insane, never watched or guarded, allowed to manage a household, and bring up her children just as other women. It came out, indeed, that some years before she had received a blow on the head, which has probably happened to all of us, but on that slight superstructure Dr. Winslow managed to erect the whole edifice of the defence. He said a blow on the head might cause disease in the brain, and that this might cause insanity, and that there was such a thing as homicidal impulse, and that having heard the evidence, and seen the prisoner, (never before the act,) he thought this was one of those cases. Mind, it was not proved that the wretched woman had ever done a single irrational act since she was of the age of reason. There was not, it will be seen, the least vestige of real foundation in fact for the defence. The forensic advocate, however, came to the aid of the medical, and urged with great force the absence of motive;—that is, the apparent absence of it; for here is again a fallacy as dangerous as the crude notion of insanity. It does not follow that because a motive is not proved therefore none is known, nor because it is not even known that therefore it does not exist. This case terribly illustrated that fallacy, as will be seen. For some reason the motive, known to exist, was not proved. It was suspected that for certain reasons the prosecution was not desired to succeed, and that the evidence was kept back for that reason. Be that as it may the evidence was kept back, and of course the prisoner's counsel made the most of the apparent absence of motive, and urged with impressive force the confirmation this gave to the theory of homicidal impulse. He said that for some inscrutable reason God permitted men and women sometimes to have these irresistible impulses to murder, and that it was shocking, but could not be helped.

Of course, the Judge, no less a Judge than Mr. Justice Erle, did his best to stem the current of all this absurdity,

and explained the subject in a masterly manner, quite in accordance with Catholic theology; pointing out that no doubt by the long indulgence of evil passions, of a sullen and revengeful disposition, the passions acquired such terrific force, that *then* probably an impulse to commit murder might become irresistible; but this, so far from doing away with moral responsibility, was only a proof of greater depravity and malignity. And in his way of putting questions to Dr. Winslow, he showed that he deemed his theory rank nonsense. In truth, it was scarcely intelligible. But it was sufficient to impose on a country jury. And of course, in a case of life and death, no judge likes to press a conviction. Again, the mischievous system succeeded, and, for a most horrid murder, complete impunity was secured. For murder it was, "most foul and most unnatural," as in a few months was placed beyond all doubt. There was an action brought by the husband for adultery with his wife; that action was referred to a learned judge now on the bench, and he awarded damages. And it was well known at the trial that there had been this adultery, that the woman found that her husband had discovered it, and was, as she feared, about to turn her out of doors; and then, in the fury of revenge, she committed this most horrible murder on her six children. And thus this foul murderess escaped with impunity, through the testimony of one of your medical advocates—your retailers of the mere theory of insanity—your preachers of the doctrine of homicidal mania!

Nor was this the last of such cases. Neither was it the worst. Beneath the lowest depths a lower still; and later cases have surpassed it in atrocity. We allude to the cases of the last Northern assizes, when more than one ruthless murderer escaped in a similar way upon the same testimony. We mention one as an instance, that of Atkinson, the wretch who murdered his sweetheart from jealousy, or rather revenge for her rejection of his wicked advances. If ever there was a case of cold blooded atrocity, that was one. The monster lured his victim to a lonely place, and then, in spite of her screams for mercy, savagely cut her throat. Unfortunately, the miscreant's friends had money enough to retain Dr. Winslow, and by the aid of his theory of insanity, they saved him from the gibbet which was his due.

The evidence, at the utmost, amounted to no more than

the merest possibility of his being of weak intellect; but it rather went to show that he was a more than usually depraved and degraded creature. There was want of moral sense; the Doctor said he was a stupid, stolid, sullen wretch; which your murderer usually is. So was the wretch whom Lord Campbell sent to be hung a year or two ago, who hardly seemed to have any mental perceptions. So was the ruffian who was convicted in a similar case before Mr. Justice Willes last year, and would have been hung had his victim died. All murderers of the common kind, are of this class. Go to the Old Bailey and see their faces; or to the phrenologists, and see their skulls, often more like those of brute animals than men. Consult Lavater on physiognomy, and you will find that there is a "murderous cast of countenance," a dull, brutal, kind of expression, perfectly expressive of the character of a murderer. But this is only the index of the moral condition of the man. And if you are to let off all murderers who look like murderers, we may as well proclaim immunity to murder. It is a monstrous theory which allows men, whose fierce, sullen, and brutal dispositions, have debased them to a state of stolid and savage barbarism, to plead as an excuse for the horrible and bloody barbarities they perpetrate, that which is the very essence of their crime, that they should so long have indulged the baser instincts of their nature, as to have degraded it to the level of the more malignant of wild beasts. The absurdities in which the monstrous theory is involved, are glaring. You would punish the youth for his first offence, of passion or of malice; but if in consequence of repeated indulgences of his passions, he at last becomes like one bereft of reason, in his savage fury, or his sullen moody spirit of revenge, you acquit him!

But whether it is from the growing conviction in mens' minds that society is so responsible for the brutish state in which large masses of our population are formed, that jurymen cannot bring themselves to condemn as criminals, men and women whose moral degradation seems next door to insanity; or whether it is from some secret dislike of the doctrine of sin, or from some morbid sympathy with crime, whatever is the cause, the monstrous theories of the "mad doctors," as Lord Campbell calls them, are followed by juries, and the vilest murderers escape.

Dr. Winslow seems to have quite a large professional practice in this way. He is the medical advocate of criminals. He is in much the same position as Mr. Adolphus or Mr. Clarkson used to be at the criminal bar. He has a large practice in criminal business. He has his special retainers all over the country. To-day, it is Guildford, in the case of Mrs. Brough; to-morrow at York, in that of Atkinson.

He appears in crowded courts as the great authority upon insanity. And every appearance is a hit. Future murderers make a note of his name, eager to secure his services. Nor they alone. Persons desirous to shut up some obstinate relation, whose last will might spoil all; and children wishing to get rid of troublesome parents without the inconvenience of becoming murderers themselves (start not, the writer knows that such things have happened, and do happen);—all these listen with deepest interest and great delight to the Doctor's descriptions of insanity, and are edified by his charming latitude of definition (to use Lord Cottenham's polite expression) and they likewise make a note of his name and address, and propose to themselves to consult him, knowing that his "definition" may have sufficient "latitude" to include the case of the impracticable relative they wish to provide for. And so every "appearance" lays the basis for an extension of practice, and future consultations bring fresh patients to the asylums; or again, he may be wanted to give evidence to set aside a will, and prove that some person he never saw, was insane.*

It is monstrous that such a system should be allowed;—that such men should be allowed to be heard at all in courts of justice, on a question in which they have the strongest personal pecuniary professional interest in giving their evidence a certain tone and tendency. It is the only instance in which such testimony is received; and a mistake has grown up in our system under which it has been admitted. All their interests are in one direction to enlarge the definition of insanity, and they have an immediate direct pecuniary interest in maintaining their theory. For, granted that they have not received any fees in the

* See the Case of *Roberts v. Kerslake*, 1 Kay and Johnson's Reports, 751, and afterwards before the Lords Justices.

particular case, yet their future interests depend upon the degree to which their testimony produces its effects on judge and jury.

The acquittal of the miscreant Atkinson upon this kind of testimony seemed quite to have shocked the profession. And the eminent physician Dr. Mayo came forward to express what no doubt is the opinion of the most respectable portion of the medical profession about it, what has long been the opinion of the legal profession. He quite upheld the old legal doctrine as to the criminal responsibility of alleged lunatics, holding that if a man had sense enough to take offence, to meditate revenge, to plan it, and to perpetrate it, he having been all his life allowed to act for himself and take care of his own affairs, he had sense enough to be a criminal and to suffer for his crime. This surely is the sensible view, the only sensible view of the question, and no one ventures to dispute it but Dr. Winslow. Of course *he* disputed it. It was destroying the most lucrative branch of his professional practice. It was touching hence his vocation. He came forward to defend it, and he did so under most favourable auspices. He was not only a relative of a late Master in Lunacy, but he had access to the *Times*. It is not always this can be obtained by those who have views to defend or a cause to support. As we desire to be fair, we will give the doctor's defence, premising that he had seen the prisoner only after his committal for trial, and had given evidence as to his insanity founded on his examination of him, and his low state of intellect, &c. This Dr. Mayo had remonstrated against as wholly insufficient to justify the evidence, and asked with great force whether it would have justified a commission of Lunacy. This was the true test; and though Dr. Winslow professed to meet it in argument, he did not in fact; for in point of fact, no one had thought of shutting the man up as a lunatic; and he was all his life at large. However let us hear the doctor. He thus writes to the *Times*:

"Let me ask Dr. Mayo whether the insane can be influenced (under circumstances similar to those in which Atkinson was placed) by rational motives,—I mean motives addressed to their reason and not to their instinct.

"Is not the 'unquestionable lunatic' incapable of appreciating like a sane and sound-minded man any motives addressed to his

reasoning faculties? His reason is disordered. It has, to use the eloquent words of Lord Erskine, 'descended from its throne,' and the instinctive faculties, which we have in common with the animal creation, have taken its place.

"The motives—the reasonable motives—that are known to influence the 'unquestionable lunatic' are in the main supplied by those which govern and direct him while under surveillance and treatment. They do not originate in the mind of the lunatic as one of the results of a process of healthy and sound ratiocination. In other words, the motives of the lunatic are of an objective, and not of a subjective character; he looks to others (while under legal restraint) to supply him with rational and reasonable motives for conduct.

"Dr. Mayo asserts that 'unquestionable lunatics and madmen' can be 'restrained by their fears.' This is an admitted axiom. But the fear of the lunatic and madman is not a reasonable and rational, but an instinctive fear, such as animals exhibit when influenced by the dread of punishment.

"Would it not be perfectly monstrous to consider the 'unquestionable lunatic' as responsible as a man in full possession of his reason, merely because he is when under conditions of moral restraint and control 'influenced by motives,' and 'restrained by fear?'

"Dr. Mayo says, 'the argument of Dr. Forbes Winslow would not, I imagine, have satisfied the Commissioners in Lunacy that vice, cruelty, intemperate passionateness, defective memory, feeble moral qualities, and limited intellect, inadequate notions of the nature of the Deity, even accompanied by a goitre, would warrant their depriving Atkinson of his liberty.'

"During the several anxious and prolonged consultations I had with the three medical gentlemen at York (previously to the trial) respecting the alleged insanity of James Atkinson, the question suggested by Dr. Mayo was, in fact, put by myself on more than one occasion to Dr. C. Williams and Messrs. Kitchen and North. 'Is this a case,' I asked, 'supposing we had known James Atkinson's antecedents but were ignorant of the fact that he had committed murder, in which we could conscientiously have certified to his mental unsoundness?'

"The answer to that question was an emphatic 'Yes.' We arrived at this conclusion, not because Atkinson had exhibited in the course of his life 'a disposition to vice,' not on account of his alleged acts of cruelty, 'his intemperate passionateness,' 'his defective memory,' 'feeble moral qualities,' 'limited intellect, inadequate notion of the Deity,' as Dr. Mayo assumes, but principally on account of the prisoner's obvious and palpable condition of imbecile mind at the time of our interview.

"During the lengthened examination that I instituted of the prisoner's state, in the presence of the medical gentlemen previously

mentioned, I discovered that he had not the intelligence and knowledge of a child of eight years of age.

"He was utterly incapable of understanding" the most simple question; his powers of apprehension were of the lowest order; the memory, faculty of judgment and comparison were little, if at all, developed.

"Apart from these symptoms of stunted mind and mental imbecility, I found the prisoner entirely unconscious of the awful position in which he stood. He exhibited no sane apprehension of the consequences of his crime, neither did he manifest in my presence the slightest fear as to the result of his trial.

"I repeatedly endeavoured to awaken in his mind some degree of rational consciousness as to the fearful crime he had committed, and tried again and again to induce him to realize the sad results to his own life, were he found guilty of the offence of which he was charged, and for the commission of which he was soon to be tried. All my efforts to arouse the prisoner to a sane state of consciousness were ineffectual. It appeared as if I were addressing myself to a child, or to one of the brute creation.

"It is true, as Dr. Mayo suggests, that 'mere 'vice,' 'defective memory,' 'limited intellect,' &c., when viewed by themselves, are not safe *data* upon which to found (exclusively) a theory of insanity and moral irresponsibility; but are not these states of mind the elements that enter into the constitution of that condition of mental disorder known by the term 'imbecility'?"

"This type of insanity is not a metaphysical abstraction. It is a condition of mind recognized by certain negations; in other words, by the absence of those manifestations of intellect generally considered to represent what we term the average standard of mental health.

"'Defective memory,' 'limited intellect' may exist irrespectively of insanity and imbecility, but I would ask Dr. Mayo whether the latter state can be present without such symptoms; in other words, whether they are not essential ingredients in all such cases.

"An imbecile has little or no memory, is dull of apprehension, is incapable of grasping the most simple questions, has no power of comparison, exhibits no interest, or interest of a most feeble character, in surrounding circumstances, and has no rational and sane appreciation of his social duties or position.

"If these symptoms were considered individually, they would be unsafe and dangerous evidences upon which to form a conclusion as to the state of any mind; but when viewed in the aggregate they constitute valid and satisfactory *data* to guide the medical jurist to a right result."

Dr. Mayo replied; and we give the substance of his reply, which will be found to embody the substance of all we have said on the subject.

"Without entering into the entire question whether the result of this trial was or was not a just one, I used this evidence, as it related to a class of cases in which I observe that 'the immediate criminal act is resolvable into normal (*i.e.*, sane) principles of action, while the context of character affords some grounds for a suspicion of mental unsoundness.' My exclusive object in that letter was to impress the public with the dangerous consequences incident to these cases as at present dealt with. To this letter, thus far referring to Dr. Forbes Winslow, he has thought proper to return an answer through the *Times* defensive of himself, and inculpating me. On the latter head I am contented to abide by the decision of the public. On the former point—namely, whether this particular case was brought to a just termination through the evidence of Dr. Forbes Winslow, I will only observe that the analysis of the trial given by the *Examiner* of the 25th ultimo exhausts this topic.

"My purpose, Sir, in the present letter, is a different one. I wish to offer a few practical suggestions on the general question discussed in my former one. Indeed, whether I am correct or not in objecting to the present theory of moral responsibility as influencing juries and sometimes judges in this class of cases—and my arguments have not been answered—I may at least assert, that the practical analysis of such cases is often a difficult one. But if this be admitted, I may fairly claim that the investigation should not be encumbered with greater difficulties than are implied in the nature of the subject."

"But there are other securities required in these cases for the attainment of truth. The profession to which I have the honour to belong ought as much as possible to be defended against the tendency of men to become advocates, and not witnesses, in cases in which they are interested. Whatever other precautions are taken the judge ought to be directed or empowered himself to call in a medical witness, who shall act equally for the prisoner and the crown—in a word for truth.

"One word more. There are wise dicta of the law on the subject of evidence in such cases as I am alluding to. One of them is, that the presumed irresponsible murderer 'did not know the nature of the act he was doing, or knowing it, did not know he was doing what was wrong.' Here is a very simple rule, by which it is the duty of the jury to abide, and not to arrogate to themselves that prerogative of mercy, which belongs to the Crown, assisted by the judges who may have tried the case. At present 'the quality of mercy is strained' by the interpretation which juries take it upon themselves to give, travelling beyond their proper function."

Thus we see there is a complete *consensus* of the two professions as to the true view to be taken of such cases—the principles involved and the tests to be applied. The

mischief has arisen, as Lord Campbell pointed out, from the loose way in which Oxford's case and Macnaghten's case were dealt with, and the encouragement they afforded to a particular set of practitioners, the "mad doctors" as he called them, to impose their lunatic asylum theory on the public, and mislead ignorant juries to give verdicts in accordance with it. The mischief can only be eradicated by judges setting their faces sternly against this kind of nonsense, and telling juries plainly to regard with the greatest doubt and suspicion a case of lunacy set up for the first time after the commission of a capital offence, and utterly to disregard the evidence of mad doctors who have not seen the criminal until after the offence was committed.

The root of the whole evil is the materialist notion that the question is a medical one. It is not. It is a moral question. It is a question of moral responsibility, and it is to be decided on moral probability. Where you can even find a possible physical cause of lunacy—as a blow on the head—even then if you find that in fact that lunacy does not exist, what matters the possible cause? And you do know that it does not exist if the man acts in other matters with as much sense as other people.

The cure of insanity arising from physical causes—as delirium tremens from drinking, or a depression of the skull, &c., or raving fever—is no doubt a matter of medical skill. But not the detection of insanity. That, in the language of the old lawyers, is "a question on all the evidence" of the case. It is a moral question, not a medical question. It is a question for practical good sense: on the moral probabilities of the case.

The notion that any one medical man can or not find out a person's sanity from inspection or examination, is one of the most flagrant impositions ever attempted. Mental incapacity is not a bodily infirmity to be detected by mere conversation; if it is so, it is so gross that no examination at all is necessary, and if it is not so, then we question if sanity is surely a practical, not a scientific question. It depends upon the general course and conduct of a man, and the impression he produces on others in dealing with him. If he is able to and does treat with other persons on his own affairs, and has sense enough for the concerns of life, how can any one pretend to say, from

a first or second visit, whether he is sane? even, indeed, if it must not be taken for practical purposes that he is so? To depart from this plain practical test is surely to confound power of intellect with sanity. And this is the test applied in commissions de lunatico inquirendo, in which the juries are asked whether the party was of sound mind, capable of taking care of his own affairs. So on an issue as to the sanity of a testator, the question is, whether he was of sound disposing mind, i.e., whether he knew the nature and effect of the disposition he purported to make. According to analogy, surely it would be sufficient that the criminal should be shown to have been of sound mind, i.e., to have had a mind to kill, to know what he was about, and to know that it was what he ought not to do. And that he is able to and allowed to live at large, and to manage his own affairs, and treated as sensible and sane, is surely conclusive proof that he is so, at all events not to be got rid of by the opinion of mad doctors, who saw him for the first time yesterday.

As we said before, the most serious aspect of the case is the facility with which, on the same fallacious principle, persons are allowed to be shut up as lunatics. No one should be allowed to be so dealt with on the certificate of a couple of doctors. If ever a jury is necessary it is in such a case. That a couple of mercenary rascals may be called in, who after looking at you, and asking you a few questions, have power to shut you up in an asylum amongst lunatics, and this in a country which boasts of its liberty, is one of the most monstrous things that ever was heard of in a civilized country. After this, is it reasonable to hear men talk of Papal misgovernment, and rave for inspection of convents: and the possible detention of nuns against their will? We do not believe that in all the civilized world such a monstrous system as that of our private lunatic asylums is to be found.

ART. V.—*Anne Sherwood, or the Social Institutions of England.* By Berkeley Aiken. In three volumes, small octavo. London: Richard Bentley.

THIS novel will be a popular book. It will be read with interest, for it is a class-book. It has already made some stir among the "upper ten thousand." It espouses one side of a question, is therefore warmly, if not wisely, written. The printer's devil, however, has played some mad pranks with the grammar of our authoress, for we cannot for a moment suppose that she has forgotten her Murray. The printer is the scapegoat of authors; if he is ever to be produced on canvass, it will require the power and skill of a Holman Hunt, to show the bleeding nostril, and eye of suffering, and feet rooted to the ground, to bear the burden cast on his unoffending back. But not to notice lesser blemishes, these volumes exhibit the graver faults of prejudice and exaggeration. It is a pity to paint the devil too black. The pride of the eyes, and the lust for gold which it begets, is the Goliath, the giant of Gath, "with helmet of brass upon his head, and greaves of brass upon his legs, and a target of brass between his shoulders," whom this David of ours, with five smooth stones out of the brook, and a sling, is desirous of cutting off from among the Philistines, so that the carcass may be this day given "unto the fowls of the air, and to the wild beasts of the earth, that all the earth may know there is a God in Israel."

The professed aim of the book we are bringing under the notice of our readers, is to show up the cruelty of the rich towards the poor; towards that most suffering section of the poor, the lady-governess class; to expose that most refined of cruelties, pride of manner, which women can adopt with such great facility, when they choose, especially towards their fellow-women of an inferior walk in life, or towards those, their equals in birth and education, who unfortunately happen, by one of the many mischances of civilized society, or by reckless speculation, not to use a harsher term, on the part of their natural protectors, to be now dependant on them for their daily bread. It is an attack upon our social institutions, but who can say they are

unassailable? unlike the British constitution and the Protestant religion, those at least may be reformed and amended. It attempts to unmask London life in the upper circles of society, to unveil the cold bosom of fine ladyism, and to lay bare the neglect and cruelty which women inflict on their fellow-women, on the teachers of their children, on the underpaid governess in the overstocked house, on those foster-mothers, who give suck to the brains of the rising generation. White slaves, as our authoress not inaptly terms them, in the not inappropriate dedication of her work to Mrs. Beecher Stowe, the champion of the black slave. In these days of great publicity no social grievance can be long gagged. It is right and wholesome that a wrong should make itself heard. Prudence and justice alike demand it. Therefore we welcome this publication, and are glad that it courts and challenges public attention by calling the self-satisfied society in which we live, to account for the criminal negligence, if not oppressive cruelty, displayed towards a large class of women, defenceless in the world, and exposed to temptations innumerable. We disbelieve one half of its statements, yet if the other half be true, there is enough left to appal the stoutest hearted man amongst us.

One day last summer, if we remember rightly, a strange tale was told in the daily papers about a young woman suddenly shipped off to the French coast, where her relations resided, by a lady—we cannot bring ourselves to call her woman—in whose house she was employed as a governess, because she had the misfortune to fall ill at an awkward time, a time when gaieties most abound. Illness is not an agreeable guest in a London house in the height of the season. She was turned out of doors, conveyed on board ship, ticketed like a bale of goods; her passage money was generously paid, and the captain, poor fellow, entreated to keep an eye upon her. Alone and friendless, and young and ill, sad in heart and weak in body, she was turned adrift, and left to die on her voyage, or on her landing, it mattered little which, so that she was out of sight and out of the way of her pleasure-hunting mistress. She did die. The fever was fanned by the fatigue of the journey to a consuming flame, and the life, which her selfish employer would now gladly recall, burnt itself out. Her relatives, hurt and indignant at such an outrage on common decency, not to speak of humanity, made an

effort to obtain redress, threatened proceedings at law, but the matter dropped, or was passed over, or was hushed up, at least the public heard no more about it. The public was indignant for a day, and spoke out loudly. It costs so little to speak, in fact a burst of virtuous indignation is rather a pleasure than otherwise. It clears the moral atmosphere as a storm does the material. It relieves the mind; it dismisses from the memory the accumulated wrongs we have witnessed inflicted on the innocent. By the utterance of our high displeasure we grow self-satisfied, and think we have done our duty. The public has other business on hand; it must move on. In the meanwhile the young lady is dead, buried, and forgotten; forgotten even by the ungrateful worm which had feasted on her body; forgotten by the mistress, who had made use of her mind to the uttermost, while her health lasted, but when it began to flag or fail, flung her aside, as an useless encumbrance, to die and to rot. The warning of her untimely end has fallen on heedless ears. The like suffering goes on, and the like selfishness which begets it. Reality is stranger than romance. If we could rip up the breast and discern the workings of the human heart, we should discover strange things, which the poet and the novelist have failed to catch even in the light of their glowing imaginations. But we have not now to do with the minds of men, but with their social institutions and the wrongs of a class. "*Il faut ôter des masques des choses aussi bien que des personnes,*" says Montaigne, the brilliant essayist, who laid bare and scourged the foibles and crimes of his own time and country. What is the cheat to be unmasked in our day; what is the whitened sepulchre to be laid bare in its hideous nakedness; what is this progress we hear so much of, as the boast of the age we live in as the result of three centuries of Protestant enlightenment; what is the worth of this wealth, which wears the garb of respectability, but has not the covering of charity? By the consideration of such questions we are brought face to face with the great social problems of the day, selfish wealth ever accumulating in fewer hands, and increasing poverty in an ever widening circle. The poor are, day by day, growing poorer, the rich richer, Poverty lies like a chained and charmed lion, crouching at the foot of lordly wealth. Did it but know how gossamer-like are the fetters which bind it down so tightly now, that they

eat through the flesh to the bone; did it but know that it needs but to rise in its wrath to rend its bonds into shreds, and to pitch its oppressor under foot, how terrible would the day of retribution be! for religion imposes on either hostile host but little restraint; with the one we fear it is but too often an empty conventionality, while by the other it is regarded only as a form and sanction, which step in at the solemn periods of birth and marriage and death, but are unseen or shunned on other occasions, and too frequently now, alas, owing to the march of modern enlightenment, dispensed with even on these. But fortunately for us, we have not now to deal with this larger question, for the aim of the book before us is limited to the dissection of one portion of the poverty-stricken world. If our authoress has succeeded in bringing home to women of influence and power the knowledge of the ill-treatment and temptation to which this class of well-educated and often delicately nurtured women is exposed in the warfare of life, she will have done good service to society. It is a difficult work to keep body and soul together. Few, we hope, will be found in England, now-a-days, to echo the words of the French woman in reply to an objection thus urged upon her, "*Il faut vivre, Madame; mais Monsieur, je n'en vois pas la nécessité.*" The disregard of the wealthy to the crying needs of the age they live in, is not wrong only, but shortsighted. It is a political blunder as well as a moral delinquency. Public crimes, like straws on a river, show which way the tide sets in. Society is startled and shocked, from time to time, by the revelation of some crime more hideous than usual, such as the murder of the Duchesse de Praslin, in Paris, just before the downfall of the wily and selfish monarch who lately sat on the throne of France, and such as that crime, in the purlieus of the Haymarket in another walk of life, which has recently so much roused public attention amongst ourselves, withdrawing, as it did, the veil which so lightly covers the great plague-spot of social life. The social evil is beyond the reach of the policeman's staff. The magistrate is baffled, and the minister of the state religion is at a loss how to carry on a cure to a successful issue. Let women step in to the rescue. They have a duty to perform. Here is scope for their energy and play for their charity. Even if they be too cold or too cowardly to follow the Good Shepherd in pursuit of the

sheep that has gone astray, yet let them have a care how they, by cruelty, injustice, or neglect to their poor dependant fellow-women, add but even one to

“Those eighty thousand faces with one smile
Beneath the gas lamps.”

But we must press on and give an outline of the story, which we hope may induce our readers to find out for themselves, the many striking and life-like scenes with which the book abounds. The story opens and ends with a death, each artistically removed from the actual stage and scene of interest, in obedience to the Horatian rule:—

“Multaque tolles
Ex oculis, quæ mox narret facundia præsens,
Nec pueros coram populo Medea trucidet
Aut humana palam coquet exta nefarius Atreus,
Aut in avem Progne vertatur, Cadmus in anguem.”

By the death of their father, a clergyman of literary repute, two young women are thrown friendless and homeless upon the world. They try their fortunes in London. They try, as Wordsworth, the poet of reality, says:

“To live by hope
And breathe the sweet airs of futurity.”

After many hair-breadth escapes from starvation, after many rebuffs from institutions, which governesses most resort to in hope, and turn away from, so often in disappointment, and after a thorough initiation in the mysteries of pawnbroking, they make a fair start in the business of life.

One sister, a milk-and-water miss, whose religion chiefly consists in quoting texts freely from Holy Writ, marries a sentimental young curate of low Church views, with a torn cuff to his coat, whom she met in the first instance, in a pawnbroker's shop. Cupid is decidedly a whimsical little god, with a large dash of fun in his composition, or else he would not have selected so unromantic a meeting place for such sentimental lovers. They marry and live ever after in a perpetual honey or rather “treacle-moon,” where we shall leave them, much to their own satisfaction, and to our very great delight. Anne Sherwood, the elder sister, was made of far sterner stuff. Her character is drawn with great power and nicety of

discrimination. In her heart, pride and love struggle for predominance, and both succumb at last, or rather run out and unite in revenge. The desire for revenge possesses her body and soul. Revenge on the man whom she loved with all the fire of her untamed nature, and with all the abidingness of first love. Revenge for an insufferable insult, inflicted on her heart, when she lay in his arms, listening to what she supposed was an honourable declaration of love, and drinking in the sweet music of his voice; and that voice of first love, as is usual in natures like hers, was ever after sounding in her ears, and beating like the ceaseless wave on the stony shore, for entrance into her closed heart.

"It is so difficult," says our authoress, "to forget old loves and old friendships, so much more difficult, if they have proved as the apples of Sodom, beautiful without, but within all ashes." Can it be true, indeed, that love, to be remembered, must be lost, and that friendship is forgotten, unless it be broken? If it be so, it were better we rose up in our might and flung both love and friendship to the winds, to be scattered like dead leaves in autumn. We are no romantic believers in love at the best, but still our authoress has given vent to so many absurdities, that we may reasonably decline to take her theories for truths. She is like many gifted persons, prone to exaggeration. For instance, if we are to give credit to her statements, all mothers are weakminded, and all children overbearing; all those through whose veins gentle or aristocratic blood courses are physically and mentally weak. Every lady of title is either ostentatiously vulgar or affectedly luxurious. In her eyes, the saloons of the great are all gilded, and the couches of velvet are so enervating, that their occupants have neither the pith nor marrow of manhood, nor the sweet touches of womanly nature. She even goes so far as to make her young ladies square like pugilists, and plant, on their gentle governesses, blows which would do credit to the professors of the ring. This is barbing her shaft with a vengeance. Take another instance; is it not the height of improbability for a woman of sense and knowledge of the world, like Anne Sherwood, to return the foolish reply she is here made to do, to a very proper question thus put by her younger sister, "Nonsense Anne, - but you must tell me whether you would accept the Doctor? Not if each particular hair of his head

were a huge diamond, and he showered them all on me like the windfall Danae received from the father of the gods." Oh Annie, Annie, this is too rich! It is romance, not reality. What, an ambitious woman, a woman in want, a proud woman, writhing beneath the iron hand of cruel fortune, a woman born to

"Bear the whips and scorns of time,
The oppressor's wrong, the proud man's contumely,
The pangs of despised love * * *
The insolence of office, and the spurns
That patient merit of the unworthy takes"—

refuse a rich and efficacious matrimonial remedy? What, decline the doctor, a man of repute, brown wig and brougham, backed up by an establishment with servants of both sexes? Reject the gilded pill, refuse his hand merely because she cannot love! What an old world notion. Love in London is out of date. It belongs to the days of chivalry. It was buried with the "dark ages." It sorts better in with "Popish superstition" than with Protestant enlightenment. We live in too go-a-head a world to lose time and money by falling in love. Love is a tyrant; it absorbs all our thoughts, if, like the wizard of old, it once lay upon us its fatal spell. It holds our hearts, if we have such old-fashioned commodities, too closely in its cruel clasp for escape.

We have forsworn now-a-days, not despotism only, but all subjection. We own no masters in our most selfish freedom; hence love is scouted, more by women even than by men, from the calculations of society. It may be a country, it is not a town, weakness. It may, at least, by a stretch of our imagination, we can just conceive it possible that it may be met with in country lanes, on rich sunset evenings, when the tall shadows of the trees lie like hopes at rest, in their stillness, on the unshaken grass; there perchance, love, first love, the only love worth naming, may be found sending the quick blood to the heart of the young, and blushes and beatings to the gentle bosom of the fair tender-eyed girl still open to the voice of love. But it is a moment's weakness, a day's sorrow, a rustic habit soon forgotten, chased away by the garish splendour or squalid misery of London life. We are naturally credulous. The organ of wonder is unduly developed in our pericranium. We are prone to romance,

and have a weakness for poetry ; but believe that love "rules the court, the camp, the grove," we simply cannot. We did believe in the great sea serpent with its long trail of light on the top of the agitated waters of the vast Atlantic, the delight of seamen, the wonder of landlubbers, but we do not believe in the light of love on the smooth surface of society, and if not on the surface, it is to be found nowhere, for London life is essentially superficial life.

With a regret we are afraid to say how deep we beheld Niebuhr, more ruthless than Nero, and as insensible to our pain as the latter was to the burning of Rome, invade the time-honoured sanctuary of history, and more savage than Goth or Vandal, trample the life out of the fables of Romulus and Remus, and the tender-hearted she-wolf, which so delighted the credulous days of our youth. With hearty zeal he soon made clean work of the romance of history. It fortunately does not require the nervous hand of a Niebuhr to pluck out by the roots the romance of love. It is already an exploded notion, an idea too fantastic and high-flown for the common work-day world we live in. That woman has a genius for invention we readily grant. When she alleges a hundred and one reasons for accepting or rejecting a lover, we listen with complacence. Our beard, with its fashionable developements, lends a mock gravity to our countenance, and conceals the smile of incredulity which curls our upper lip. We dare not contradict, but we cannot believe that a woman, in the London world, is so influenced by what she calls a heart, as to decline a splendid match with a man of character, because, forsooth, she cannot love. We would almost as soon believe—fair readers do not laugh—we would almost as soon believe she would take for love's sake only poverty as her bosom-guest. We agree with a poet we have heard quoted, or have seen somewhere, when he says,

"The loves and the graces
In sweet women's faces
Are but a poet's idle dream.
Love's truest nurses
Are long heavy purses,
Pearls from the ocean, gold from the stream."

We regret our keen-witted authoress has been so far carried away by her feelings as to allow Anne Sherwood

to reject so handsome an offer made by so charming a man as the old doctor, and has thus tinged with romance a tale of sad and sober reality. We console ourselves, however, with the reflection that it is too transparent an absurdity to provoke imitation among the class intended to be benefitted by these volumes.

Annie, we must confess, falls in love at last, but the man she loves, of course quite by accident, wears a coronet, and by another fortunate concurrence of circumstances, has broad acres at his back; nevertheless, though guilty of noble blood, he was a proper man, had a fine face shaded by raven locks. But did that pale woman who loved him, not know that the raven has a wing? his face, moreover, was lit by lustrous speaking eyes, most fatal of gifts, more fatal than woman's tears, because more true. "It was a countenance," so Annie described the face of her lover, Lord Claude Douglas, which we may well believe she had by heart, "it was at once a countenance of power and gentleness, proud yet tender, spirited yet yielding."

That love stood near, who can wonder, and love had flowers as of old, the fair Forget-me-not, love's first prayer, and the sweet-scented and star-shaped Heliotrope, breathing the very fragrance of early love, and telling of life-long devotion, of devotion unheeded and unreturned. As Annie laid in her bosom this sweet little flower of promise, plucked by hands that were so dear to her, she might have said with Alinda in the Pilgrim;

"I am not proud nor full of wine,
This little flower will make me fine,
Cruel in heart for I shall cry
If I see a sparrow die.
I am not watchful to do ill,
Nor glorious to pursue it still,
Nor pitiless to those that weep;
Such as are bid them go sleep.
Do, do, do, and see if they can."

Flowers, those sweet relics of Eden, seem to have suffered less by the fall than anything else that inhabits or adorns the earth; hence it is, we suppose, that they are ever, with the true-hearted and tender, love's earliest gifts, the hope at once and the promise of the unrealized future. Hopes how vain, and promises never to be fulfilled. Poor foolish Annie, her's was not the ruthless hand which thrust

those first gifts of love into the burning flame, for she loved, and they spoke to her of love, and love scatters not what it treasures. But they were scattered and flung into the fire,—most ungenerous cruelty,—by Lady Adelaide, Annie's arch-enemy, and future successful rival. Annie is kneeling down now, making her first act of love, her first worship of that idol, which is more treacherous and tyrannical than any ever set up by the heart of man, kneeling to gather up those scattered remnants and treasured tokens; the whitened ashes are carefully placed in a sheet of paper, and stowed away as keepsakes in her old desk, her treasure-house of love. Who amongst us, even in these whirling railroad days, has not an old and odd corner in his memory, where such treasures of his youth, ashes even though they be, do not lie hidden so deep and so dear, that the old besom of time sweep it ever so clean, cannot reach, and which, even if we could, we would not remove?

The love story is good, it is true to nature, and goes home to the heart. Its early beginnings are timid and shy. True love is never loud, and in its commencement never outspoken. It lies, like an incipient fever, in the flash of the eye, and speaks in the tremulous motions of the mouth. Then comes sickness, the separator, the keen and slow examiner of hurried feelings and hidden thoughts. Absence, the food of love, and sympathy, its very drink, do their appointed work. The lady fair stands, as we should expect, before the lover's prison-house; the world's tyranny, more than stony and stolid walls, bars out hands and eyes, that would soothe and soften sickness. The sick man leaps in his madness to the window, of course, to catch a sight of her passing shadow, to be his meditation by day and his dream by night. Health returns to the pale sufferer, then comes the meeting again between the long-parted but unavowed lovers, a meeting so often rehearsed and so long meditated on in sleepless nights; then comes the issue, fatal or fond, as the case may be, but always so different from what the imagination delighted to picture it beforehand. But the result of this long-hoped for meeting was fatal to poor Annie, fatal to her happiness for life, and fatal to the honour of her worthless, mean-spirited lover. Whip us the man round the market-place who would break a true woman's heart, if such there be, who could cajole and deceive the priceless

treasure of her young affections, and like a traitor and a coward, leave her hopeless and helpless in her woman's weakness. Great was Annie's disappointment indeed, not because a lover, who had a fortune to give with his hand, and a coronet to place on her brow, had proved faithless; but because the man, whom she had set her heart on, had shown that he had neither manhood nor mercy in his nature, had shown that in his breast true love had no place and honour no hold. Stung she was to the quick of her sensitive nature, because he whom she had set up as an idol of love, and whom she regarded as a pattern of honour, had fallen so low, and forfeited her esteem for ever. But she loved him still, in spite of his delinquencies, and to punish him for his treacherous cowardice, resolves on a marriage of revenge, and with wonderful nerve carries out her resolve. Shall we not after this be constrained to own with Don Jamie, in the Spanish Curate, that

"To work a fell revenge a man's a fool,
If not instructed in a woman's school?"

Thus a new motive to our modern marriages is brought to light, a motive not so uncommon as we should be led at first sight to imagine. Revenge and jealousy, and wounded vanity, like unbitted and unbroken steeds, will lead the human heart a powerless charioteer over many a precipice, and issue in strange and unlooked for results.

There is a fine scene of jealousy described in the volume before us, which will well repay perusal. It is one in which Annie meets, at a critical juncture, her first lover, Lord Claude. Anne Sherwood, or rather Mrs. Annesley, the haughty and cold and yet fascinating widow;—for we have omitted to mention that the heroine had contracted a marriage, which our strong-minded authoress conveniently nipped in the bud, by killing the aged bridegroom with a fit of joy, or of apoplexy, at the wedding breakfast;—Annie then, as we shall continue to call her, had one night, in a fit of jealous love, sallied forth from her saloons crowded with the gay and the gifted, for she was now a brilliant and courted authoress, to gaze at the house of the only man whom she had ever loved, loved and left. What a strange sight must she not behold on that fatal night! what a tragic scene must she not witness! He, whom she so loved, is about to elope with the wife of

another man. She watches before the door, disguised in the rags of a beggar. Love, the terrible tyrant, has brought down the haughty woman so low, but jealousy stings her to the quick. She sees her unworthy lover pass out with the woman whom she had served and hated of old in the days of her governess-life. She starts forward in the despair of baffled love, and the eagerness of jealousy and with the wild step of revenge. She is lashed back by the whip of her former lover. She utters a yell of despair and hate, that rings through the silent night, so fierce and yet so faint, as if it came from the depths of a breaking heart. She chases, in a moment of agony, the flying chariot of the sinful couple, until breathless she falls beneath the lamp-post on the cold damp stones. The sound of the guilty wheel dies away, and all is silent again and still beneath the unpitying stars. After the lapse of an hour, Annie reappears amongst her company, more dazzling than usual, more brilliant than ever, with flashing eyes and a marvellous light upon her countenance. She bewitches every one she approaches with the fascination of her words, and startles them with the keenness of her wit. She prolongs the feast far into the night, ever starting fresh and fresh trains of conversation. Never was Anne Sherwood so gay and so attractive. She surpassed herself that night. How quick and sudden the transition from utter grief to seeming joy. How severe must the struggle be "to fix the brow into a kind of quiet," and show a rigid lip. Thus it is the heart escapes from breaking, but it is fearful to behold this life and death combat. What man—for we suppose men with their stronger natures, love more and hate more than women—would not

"Rather be a friar

And live mowed up, than be a fool and flouted?"

Or who would not, sooner than love and be a woman's dupe, cry out with Bellair, in the Wild Goose Chase,

"No, I'll make hobnails first, or mend old kettles?"

We must hasten on to the conclusion of the tale, and leave to the curious in these matters, the singular articles of alliance which Annie drew up and forced upon her nominal lord and master in her second marriage, a marriage by which she won the triple advantage of revenge, a coronet and her own liberty.

Years have elapsed, as they will elapse in joy or in sorrow, for neither can add to the speed or stay the flight of irresistible time; and we find Annie once more a widow and at liberty, a wiser but a sadder woman, better able now than ever to meet the closing trial of her eventful life. She was now living in the Highlands, whose wild mountain scenery had something akin, in its desolate grandeur, to her own spirit. Drawn by the attraction which like has to like, she came to spend the sunset of her young life among the lone and desolate hills, that seemed by their loneliness, set apart from the outer world to be nature's monasteries, made for meditation. On one of those autumnal evenings, which are so sad and so solemn in their grandeur, Annie went forth to enjoy the repose, the rich repose that filled the earth and air. The sun had but now sunk beneath the horizon, blood-red and purple clouds were dispersing in dense masses, stretching away in ever changing shapes, as far as eye could reach. The sadness of autumn, the loneliness of the mountain scenery, or the recollections of life, or rather perhaps their united influence, lay on the spirit of Annie and touched her once tumultuous heart, joyless now and solitary as ever. We might almost fancy, as we watch her, standing on the edge of that projecting rock, gazing down on the foaming waterfall below, we could hear escape from her trembling lips the sad lament of Gretchen, in Faust—

“Meine Ruhe ist hin,
Mein Herz ist schwor,
Ich finde sie nimmer
Ach nimmer mehr.”

The lonely watcher in that remote and secluded spot, was startled, on the sudden, by the sound of a well-known voice, a voice long loved, and remembered long. It rushed to her heart, like the first thought of love. She at last was at liberty, and Claude Douglas stood before her. Their eyes met, as they had met in the days of their first love. Neither had ever loved another. But the cruel fates, as of old, so now were unpropitious. As Annie sprang forward to fling herself into Claude's outstretched arms, her foot slipped, and she fell down, far down the precipice. Her white veil shone for a while, like hope, in the dim

depths, and then slowly, without a struggle, she sank below the foaming waters of that lonely Highland river.

Had the novel ended with this startling catastrophe, we should have been satisfied with the dramatic effect. But no, for some unaccountable reason, the authoress must needs recall the heroine to life again, for no purpose that we wot of, unless it be perhaps that she might, lying on a sick couch, talk maudlin sentiment to her lover, raise hopes in his breast only to disappoint them, and finally to dismiss him repentant to the wars, to win back glory to his tarnished name. This sending to the wars is, by the way, no new idea; it was the happy expedient fair ladies, in the days of chivalry, hit upon to rid themselves of superfluous lovers. It answered to perfection; it enhanced their renown, and was an excuse for their fickleness. We are not sorry to learn that Claude Douglas fell, sword in hand, in the chivalrous charge at Balaklava, where "rode the six hundred" to certain destruction. He scarcely deserved a death so glorious.

But why, we ask again, in the name of patience and of dramatic art, was the heroine, without sufficient cause in the plot to warrant an event so unusual, called back to life? It is against all rules.

*"Nec Deus intersit, nisi dignus vindice nodus
Inciderit."*

We hate these needless resurrections. If Claude Douglas, to answer the purpose of the tale, was to go and be hanged or shot, we are sure he needed no ghost from the grave to tell him so.

Before we part with Anne Sherwood we should like, as a matter of curiosity, to strike a balance between her gains and losses. Count them up on the fingers. First a score of admirers, gratifying but not very useful; three offers of marriage, good, two husbands, a handsome dower, and a large fortune, with a coronet to boot; not so bad after all, enough at least to content, we should imagine, a moderate woman in these hard times for matrimonial speculations. These were all positive gains. Was it not a gain for a woman, who hated poverty, to become rich, for a proud woman to place a coronet on her brow, for an ambitious woman to win fame, and for a revengeful woman to have out her revenge to the full on the man who slighted her, and on the woman who was her successful rival? What was the sole set-off against

all these gains? Love, disappointed love. She had staked all the joy of her life on that die, and it failed. The horn of plenty, which the Goddess of Fortune showered into her lap, seemed to her heart like an Egyptian dearth. Annie had not caught the lesson of content from "the sweet uses of adversity." She did not make up her mind, like a true woman, to enjoy the present and forget the past. Her lips disdained the Nepenthe drink of oblivion. She preferred memory to hope. Poor foolish Annie, how absurd was grief like hers; remember life's pleasant things, so we all say, and yet half suspect the while, (though we dare not avow it,) that there may be a grief which cannot be forgotten. Poor Annie, did she not know that the day was short, and the night was coming, the night of peace? Besides, what else could she expect in a world like this,

"Where the big human heart
Is but an auction mart
For traffic, and barter, and sale;
Where the old and the young
Together are flung,
With hearts all aflame and bosoms all pale?"

She was out in her reckoning; her place was in the outer ring, few enter the inner circle of life's delights. She belonged to the outer world, and ought to have been content with her lot in life. Love has a world of its own; it was not hers. She rebelled and was flung back upon herself. She learnt silence, but not submission. There was no murmur on her lip, but it quivered like an aspen leaf, and her eye was hot and tearless, as if it had burnt itself out. Love came not near her heart. Made for better things, she remained in the world, that had charms for her no more, with a heart unsatisfied, and with a quenchless desire for something higher and holier than it afforded. She had no consolation for a heart bruised by the heel of the world, and knew not where to look for support in her hour of trial. She might have exclaimed, in bitterness of spirit—

"Can nothing teach
The outer world its barren heart to keep
From thirst for love, far liefer let it curl
Derisive lip, for love is like a pearl,
Which none shall find, cast in the tideless deep."

We have treated this work of fiction as we found it. We avoided, on purpose, the introduction of the religious element, because, despite sundry pious passages, the book itself is written as if the world were all in all, as if there were nothing stronger than nature, sweeter than love, higher than humanity.

We do not know under what category the writer of *Anne Sherwood* would place the religious establishment of the country; whether it would take rank among the social institutions, or whether she would claim for it a higher position, is a question we take no heed to investigate. But we have observed, we cannot say with surprise, in this picture of a certain phase of English life, men and women, agitated by conflicting passions, undergoing the bitterest trials of life, enduring with a strength all but heroic, privations all but beyond the ordinary lot of humanity, yet unsupported by the principles of religion, uninfluenced by the bright examples of Christianity, unguided even by the faintest indication of the presence of supernatural motives. We find, laid open before our eyes, the refined sensualism of the Greek, the luxury and corruption of the Roman, and the hardihood of the Spartan, but not the fortitude which it somewhat resembles, of the Saint. The unmurmuring submission of the will is not the resignation of the Christian, the unflinching endurance of the Stoic is not the self-denial of the Cross. If strict fidelity to life be the praise of the novelist, no blame ought to attach to the writer, who boldly holds up the mirror to nature. Society catches a reflection of itself, and is startled at its own deformity. It may shatter, indeed, the mirror to fragments, in its indignation, but the truth of the sight revealed remains, nevertheless, in judgment on its awakened conscience. We, however, are free to own that Protestantism is a signal failure in its operation upon the motives of action, a greater failure in its every-day work than in its Sunday wear. The minds of "enlightened" men in the nineteenth century incline to naturalism, and shrink with instinctive dread from the supernatural. Their eyes are restless unless they can pierce the veil that shrouds the Invisible. Their reason is ill at ease, unless it can track the ways of the Incomprehensible. Whatever remains unaccounted for by the light of unaided reason, is with them untrue. Protestantism is fast lapsing back into Paganism, into the worship of instinct, into the deifi-

cation of nature. It is Paganism without its grandeur of ritual, and its external obedience to the gods of its own creation. The Pagan, in the darkness of his superstition, watched the flight of birds, and examined the entrails of beasts, for a revelation of the Divine Will. We in Protestant England watch the flight of no birds, consult the wisdom of no auguries, but obey in pride of heart the motions of our own will, and rely only on the dictates of our own reason. In three hundred years and more of Protestantism, we have drifted far from the symbol of life. In the march of intellect we have left the cross behind. Though it tower in golden magnificence above the mighty dome that overshadows the city, the mart of nations, and the boast of civilization, yet it is lifted up to gratify the eye, not to reign over the hearts of men as a master. It is an ornament and nothing more. A piece of antiquarianism which modern progress has not yet abolished. As a principle, it is as obsolete as Gog and Magog. In a state of society where Rationalism revels in the university-hall, and is paraded and adopted, if not understood, in the reading-room of the artizan, where blind instinct, with all its consequent evils, is worshipped and obeyed in the workshop and mill, who can wonder that works of fiction, the chief intellectual food of a hungry multitude, should abound, animated by no principles, to say the very least, higher than those enunciated by the "Christian Socialist." In a state of society where the asceticism of the saints reckons as the absurdity of fools, where the cross is a sign to be contradicted, who can wonder at the immense mass of cheap literature, produced to pander to immorality and unbelief, and which, like a snake in the grass, taints with its poisonous breath the almost heathen population crowded together, like outcasts of society, in the dens of our large manufacturing towns? Iniquity rises like a malaria and contagion spreads. In the light of day, and amid the decencies of society, the insinuations and approaches of unbelief are veiled and masked. We may regard, therefore, with regret, rebuke with indignation, but cannot however wonder to-day at the Naturalism of a Berkeley-Aiken, or the muscular Christianity of a Kingsley.

ART. VI.—1. *Correspondence of Charles, first Marquis Cornwallis*. Edited, with Notes, by Charles Ross, Esq. 3 vols. 8vo. London: Murray, 1859.

2. *The United Irishmen, their Lives and Times*. With additional authentic Documents, and numerous original Portraits. The whole Matter newly arranged and revised; by Richard R. Madden, M. R. I. A. First Series, 8vo. Dublin: James Duffy, 1857.

3. *The United Irishmen*. By Richard R. Madden. Second Series, 8vo. Dublin: James Duffy, 1858.

OF the many recent contributions to the history of the last two generations, from family sources, there is hardly one which possesses so much general interest, and certainly not one which possesses so special an interest for Ireland, as the private and confidential correspondence of Charles, Lord Cornwallis. For a space of nearly fifty years, from the commencement of the Seven Years' War till the middle of the great conflict into which the European kingdoms were plunged by the French Revolution, he was almost constantly engaged in public affairs, whether in a civil or a military capacity. For a considerable, and that the most critical, part of this long public service, he held in his own person the twofold responsibility of a civil and a military command. When he had hardly completed his twentieth year, he was attached to the staff of Lord Granby during the campaign of 1758, and was present at the various actions, including that of Minden, in which that general was engaged. In the American War he held a command from 1776 till 1781; and during the last years of this period, he may be said to have had the chief share in every transaction of real interest, as his command lay in what was the only seat of active operations. He had the unusual honour of twice holding the office of Governor-General of India; and he was sworn into office a third time, though he did not actually proceed to India. His first term of office (1786-93) included the memorable struggle against British Supremacy under Tippoo, and (at least for the social history of British India) the almost equally memorable "settlement" of the Land question. The occasion of his second nomination was the mutiny of the Bengal

Army in 1796. His third appointment was occasioned by the misunderstandings which arose between Lord Wellesley and the Court of Directors as well as the Government; and an appointment at such a crisis implied the highest tribute to Lord Cornwallis's ability, as well as to his tact and administrative capacity. The confidential correspondence arising out of such employments as these, must necessarily supply many curious personal revelations, as well as throw much interesting light upon the political events of the period.

But the great interest which Mr. Ross's volumes must have for our readers, arises, we need hardly say, out of Lord Cornwallis's Irish administration, during the bloody scenes of 1798-9, and the flagitious profligacy of 1800. During this entire time he was in daily correspondence with the heads of the Cabinet in London, and there is hardly a single event of any importance, the private history of which may not be read in his communications, or in the documents which accompany and illustrate them.

Less interesting to Irish readers, but not without considerable significance in the present condition of European politics, are the papers connected with Lord Cornwallis's French Mission to the First Consul, which resulted in the negotiations for the peace of Amiens. It would be difficult to trace the details of the analogy; but it is impossible to disguise from oneself that the existing uneasy and mistrustful condition of the public mind throughout Europe, which up to the present time no diplomatic negotiations have been able to reassure, arises from some real or fancied resemblance between the position of the present Emperor of the French, and that of the first Napoleon, during the period of his undeveloped supremacy. Lord Cornwallis's report of his interview with the First Consul is a most remarkable document, and well deserves the attention of the politician no less than of the historical student.

Lord Cornwallis's temper and disposition too, as well as the nature of the greater number of the commands which he held, have imparted even to his official correspondence a character very different from the cold and formal communications which we usually meet with under the name of State Papers. Most of his commands were independent. He refused the Governor-Generalship of India when it was first offered him by Lord Shelburne, because he considered its powers as then defined, too

limited for the satisfactory working of the administration; nor was it till after Pitt's new East India Bill had enlarged the Governor-General's authority, that he was induced to undertake the office. When he consented to go to Ireland in 1798, it was only on the condition that the chief military, as well as civil, authority should be entrusted to him. Hence, as in all cases we find him acting almost entirely for himself; we find him also in his correspondence with the heads of the government in England entering into fuller and more minute details for the explanation of his measures, than would probably have been offered by one who acted more by routine, and who shared with others the responsibility of the proceedings which he had to recount. Whether it be attributable to this circumstance, or to the frank and independent character of the writer, we look upon Lord Cornwallis's letters as among the most instructive state papers we have ever read.

We purpose, in the following pages, to give a short account of this collection of state papers, the most valuable in many respects which have been made public for a long time. We are happy to add that the editor has spared no pains to illustrate them by historical, biographical, and above all, genealogical annotations; and his book in this particular presents a most creditable contrast to the many bald and slovenly publications of the same class which, for the last ten years, have inundated the literary market.

Charles, Earl, and subsequently Marquis, of Cornwallis, was the sixth child, but eldest son, of the first Earl Cornwallis, and was born December 31, 1738. He was sent early to Eton, where the most notable circumstance in his history, is his receiving at the game of hockey, from Shute Barrington, subsequently bishop of Durham, a blow on the eye which produced a slight obliquity of vision never afterwards removed. Whether after leaving Eton he entered the University appears more than doubtful; and at all events it is certain that before he had attained his eighteenth year he had received his commission in the 1st Guards, now the Grenadier Guards. He was soon afterwards sent, under the tutorship of a Prussian officer, to the military academy of Turin, where he remained for a short time; and ultimately joined the British force which was collected in Germany under Lord Granby, in 1758.

In the following year, however, he was returned to Parliament for the borough of Eye, which he continued to represent till the death of his father; when, succeeding to the Earldom, he took his seat in the House of Lords in November, 1762. Nevertheless, his career (although he is the object of a violent tirade in one of Junius's Letters) does not present any event at all deserving of notice, till the commencement of the American War, in which, although he had uniformly declared his sense of its injustice, and of the impolicy and inexpediency of the proceedings which led to it, he accepted a command as general of division, and embarked for America, February 10th, 1776.

The history of this ill-starred campaign is familiar to all our readers, nor will the papers published by Mr. Ross modify in any material particulars the judgment which has long since been pronounced regarding it. Lord Cornwallis's share in the responsibility appears, from all this correspondence, to have been precisely what was represented at the time.

The same too, may be said of the military portion of the history of his command in India. That part of his correspondence which bears upon the Mysore campaign, is unquestionably exceedingly picturesque and graphic; and well deserves for its own sake to be carefully studied by those who feel an interest in the military history of India. We have often been reminded, in turning over its pages, of the incidents and characters of the late campaign. With little change beyond that of names and dates, many of Lord Cornwallis's letters might be taken for the despatches of Lord Clyde written in the course of last year; and although the operations of a single bold and vigorous leader, such as Tippoo, must necessarily have differed widely from the weak and disjointed efforts of the unorganized masses which constituted the rebel army of 1857-8, yet, from that seeming immobility which marks the oriental character, it would appear as if, in the narratives of last year, the very same scenes and events were repeating themselves after an interval of more than half a century, and as if, merely shifting from Mysore to the kingdom of Oude, we had but opened once again the same chapter of the great historical metempsychosis.

The history of Lord Cornwallis's civil government in India, however, is much more important, and possesses a

much higher practical interest, as bearing upon the present condition of that vast and long-misgoverned empire. Statesmen have long felt that the source of the social evils of India lies far deeper than the forms of government, and even, important though they be, than the details of political and legal administration. The real question upon which the fortunes of India turn is that of the tenure of land, and of the relations of the government thereto. In succeeding to the various native governments which we have displaced in India, by the successive steps of conquest or cession, we have also succeeded to what had been the common machinery of all for the raising of revenue—the land-tax, in some of its various forms. That this tax had been most arbitrary and oppressive, and that its exaction had been attended with the utmost cruelty, fraud, and corruption, under all the native governments, is quite certain; nor can it be doubted that, even where it has been most abused under British rule, the abuses have fallen far short of those which had become inveterate under the native rulers. But, nevertheless, it must be also confessed that our own administration of the land-system of India has been, and, we fear still is, a disgrace to the name of British justice and humanity.

It is well known that in India three different systems of land tenure prevail—the *village* system, the *ryotwarry* system, and the *zemindarry* system. In each of these three systems the Government exacts a certain amount of rent or land-tax, which forms in the whole nearly three-fifths of the entire Indian revenue.*

In the *village system*, which prevails throughout the North Western provinces, from Gorruckpoor and Benares to Delhi, the assessment is made, not upon individual cultivators, but upon villages; and the Government deals, both for the assessment of the amount and for its ultimate collection, not with the individual cultivator (or ryot), but with the village authorities, whoever they may be. In some districts a system called Bhyakarah (brotherhood), prevails, according to which the affairs of the village are managed by an elective committee (locally designated by the, to us ludicrous, name of *Punch*,) who, upon the one hand, settle with the collector for the assessment of the entire tax

* Fifteen of the twenty-six millions of yearly revenue.

chargeable on the village, and, on the other, apportion among the villagers their respective amount of contribution, for the due collection of which from individual ryots they are themselves responsible to the collectors. In other districts, the primitive and democratic constitution of the village system has been supplanted by the usurpation of one or more powerful individuals,* who, (by a modification of the system, to be explained hereafter), permanently hold the place of the elective *Punch* already described, and, under the title of Zemindars, possess almost arbitrary powers in reference to the individual residents of the village. But in this case also the Government deals directly with them, and not with the ryots themselves, whom it leaves, both for the amount to be levied and the manner of its collection, to the dominant party of the village. In other places there is still a further departure from the democratic system; certain powerful families or individuals having usurped authority over all the villages throughout an entire district. In such case the immediate action of the Government is withdrawn by another step from the individual ryot. The collector, in this system, deals directly with the zemindar of the district for the whole amount of its land revenue, leaving it to him to arrange with the several village zemindars for the proportions to be paid by their respective villages, they themselves, in their turn, having authority to apportion this amount among the individual ryots of each village. It is hardly necessary to observe, that although in each of these three forms of the village system, a new and progressively increasing burden is placed upon the unhappy cultivators, yet, in all three, the Government is removed from *direct* connexion with the details of assessment for individuals, or with the means employed for compelling payment of the tax so apportioned among them.

In the *ryotwarry* system, no such machinery for self-assessment or for joint liquidation of the land-tax exists.

* These individuals are known as the *zemindars* of the village;—a name which will be presently explained in the more general signification in which it is understood in the Bengal Presidency. Even where the authority of the zemindars extends over a number of villages (as explained above), they are still called by the same name.

Each individual *ryot* (cultivator), holds, directly as it were, from the government, and is himself individually responsible to the collector for the amount of tax at which he is assessed. The collector or his deputy makes a circuit of the collectorate at stated periods, first for the assessment of the various holdings, (in which are included an agreement as to the quantity of land to be cultivated by the *ryot*, and the kind of crop which he is to produce) and afterwards for the collection of the amount assessed upon each *puttee*, or holding. We need hardly add that the Report of the late Commission of Inquiry into the Use of Torture at Madras, disclosed the existence, among the native agents employed in the collection, of a system of torture for the exaction of revenue, the details of which are in the highest degree cruel and revolting, and even offensive to decency itself. Unhappily, moreover, it was but too evident that, although the British officials did not personally participate in these hateful transactions, they must have been in many cases fully cognizant of their existence, or at least must have wilfully shut their eyes and ears against opportunities of information.

The third, or *zemindarry* system of tenure, appears to have arisen out of the village system. The office of president of the village council of assessment, being held for a series of years by members of some powerful family, came, in progress of time, to be regarded as hereditary, and eventually was supposed to imply some proprietary rights on the part of the hereditary holder. No doubt is now entertained that there was not any real foundation for this supposed right.* But in considering the question with a view to its general adjustment, Lord Cornwallis thought it expedient to deal with the rights of the *zemindars*, where (as in the Bengal Government) this form of tenure prevailed, strictly on the supposition that they were the actual proprietors of the soil, and that the *ryots* who held land in the *zemindarry*, stood to them in the exact relation of tenants. The justice and policy of this proceeding were severely criticized at the time. The plan, too, was vehemently resisted, and eventually rejected by Sir

* The word *zemindar* means simply *land-agent*; *zemeen* signifying *land*, and *dar* being but the normal terminational affix, signifying one who deals in, or manages, that to which it is affixed.

Thomas Monro in the Madras Presidency, where the ryotwarry system is still maintained, and where the assessments are still temporary and variable. Lord Cornwallis, nevertheless, firmly adhered to the twofold principle;—of proprietary zemindars, and of a permanent settlement of the revenues; and the papers printed in the appendix of the first and second volumes, contain a detailed and most elaborate exposition of the entire state of the land question, together with a strenuous vindication of the course which he himself recommended for adoption. We cannot help thinking that, in the readjustment of the finances of India, which, sooner or later, must force itself upon the legislature, these papers, and the documents upon which they are founded, will deserve the most careful consideration. The editor has devoted an interesting chapter to a resumé of the whole question which may be read with great advantage; but the materials for a full investigation of it, and for the guidance of the reader's own judgment, must be sought in Lord Cornwallis's own papers, and especially in a long Minute, dated Feb. 10, 1790 (II. 459-74), and two other papers addressed to the Directors, Aug. 28, 1792, and Mar. 9, 1793.

To these papers we must refer all who are specially interested, whether in the past history of the Indian Land-question, or in the future discussion of that important subject. The present is perhaps the most favourable opportunity for its reconsideration that could possibly have arisen. As regards two of the presidencies, that of Madras and that of Bombay, it may still be said to be in some sense an open question. And in every part of India, even where the permanent settlement has been so long in force, there are numberless details, and those of the most vital importance, which not only admit but invite a searching revision and readjustment. It is on the adjustment of these details, much more than on those great schemes of legislation to which European legislators naturally turn, that the future fortunes of India really depend.

We have already said, however, that, for our readers, the main interest of the Cornwallis Papers lies in the Irish Correspondence from 1798 to 1801. For some portion of the curious revelations of this correspondence the public had been prepared by the Irish division of the Castlereagh Papers. Another and still more startling glimpse into the secret history of that period was given by Dr. Madden, in

his elaborate and searching Memoirs of the United Irishmen, which we are happy to see in a new and more generally accessible edition, of which two volumes have already appeared. But neither the Castlereagh Papers, nor the documents collected by Dr. Madden, can possess the same interest, or at least can carry with them the same authority, as the correspondence of the responsible director and chief of all the proceedings which he records, especially of one who, like Lord Cornwallis, was not content to accept at second-hand the judgment of others, but required to be personally informed of all that was done in his name. The circumstances, too, in which he came to Ireland, and the juncture of public affairs at which he entered upon the vice-royalty, give to his opinions a weight to which those of the earlier witnesses on the side of government cannot fairly be held entitled. When Lord Cornwallis arrived in Ireland, the Rebellion had already reached its crisis. With the causes which led to the public dissatisfaction, with the early measures, by which the government sought, on the one hand, to force it on into premature violence, on the other, to repress it by the most revolting cruelties, he was entirely unconnected. He had no foregone conclusions to maintain, no confident predictions to verify, no hereditary vindictiveness to indulge. He came to Ireland comparatively a stranger; and, although of course his bias was strongly towards the government measures and views, he was able to look upon both parties with a comparatively impartial eye. His first impressions of the state of things in Ireland, therefore, are of the utmost value; and our main object in this notice is to collect these views, in so far as they are preserved in his letters, and in the other papers which he embodied in his Correspondence. It would carry us far beyond our allotted limits, indeed, to enter into the history of this unhappy period; and we shall merely weave together such portions of Lord Cornwallis's letters as exhibit most strikingly the views which he formed regarding the state of parties in Ireland, the causes in which her evils originated, and the spirit by which the dominant factions of the time were animated towards the English government on the one hand, and towards their unhappy fellow-countrymen on the other.

Mr. Ross has prefixed to the papers bearing on Irish affairs in 1798, a short sketch of the state of Ireland at the

time of Lord Cornwallis's entering on the government. His views, although somewhat coloured, as may be supposed, by the medium through which he derived them, are, on the whole, marked by candour and moderation. In describing the alarming state of things which compelled the government to place at the head of affairs a person of undoubted firmness and acknowledged judgment, and to vest in his hands the supreme military as well as civil authority, he acknowledges that "a long course of neglect and misgovernment had brought Ireland into this dangerous position. Formerly the Irish Parliament met but once in two years, and was only necessarily dissolved by the death of the Sovereign. The grossest corruption prevailed, and Ministers, almost always able to carry any question about which they were really anxious, were very indifferent to the real interests of the country. A perpetual Mutiny Bill relieved them from all difficulty on that subject. Little by little some points were gained by the popular party. An Octennial Bill was passed, and when, owing to the difficulties of England, the regular troops were nearly all withdrawn from Ireland, a general flame burst forth which led in 1778 to the formation of the Volunteer corps. Forty-two thousand men were gradually enrolled—the officers, rejecting royal commissions, were chosen by the members of each corps, by whom also Lord Charlemont was nominated the General." He proceeds to detail the course of events by which the Volunteer Association led to the formation of the Convention, the Convention to the Society of United Irishmen, and this in its turn, to the appeals for aid from the French Directory. The Volunteer Association, however, as Mr. Ross observes, contained within itself the seeds of certain and inevitable disunion. He points out that "the inhabitants of Ulster were mostly Presbyterians, and though the republican nature of their tenets disposed them eagerly to join the United Irish, they hated the Roman Catholics, and were no advocates for their emancipation. As long as the Roman Catholic members of the Society remained in a minority, and the doctrine of emancipation was kept in the background by the Executive, the Presbyterians joined heartily in the conspiracy; but when the population of the east and south enrolled themselves, and emancipation became an open and leading object, the hatred of Popery diminished the zeal of the Ulster peasantry. The Executive Committee laboured

energetically to re-excite the spirit of disaffection in the north; but as some months passed before their efforts were in any degree successful, their position at the close of 1797 was one of great perplexity."

With these divided councils and conflicting views on the part of the insurgents, the opposite party was at least united in one particular—a deep and rooted spirit of revenge and blood. Lord Cornwallis, from the very moment of his arrival, expresses, without reserve, his shame and horror at the scenes which he is forced to witness, and the sentiments which meet him in every department of government and every grade of society.

"The overt rebellion," he writes to Major-General Ross, July 24, 1798, "is certainly declining, and the principal leaders in Kil-dare have surrendered with a stipulation for their lives only; but the whole country is in such a state that I feel frightened and ashamed whenever I consider that I am looked upon as being at the head of it. Except in the instances of the six state trials that are going on here, there is no law either in town or country but martial law, and you know enough of that to see all the horrors of it, even in the best administration of it; judge then how it must be conducted by Irishmen heated with passion and revenge. But all this is trifling compared to the numberless murders that are hourly committed by our people without any process or examination whatever. The yeomanry are in the style of the Loyalists in America, only much more numerous and powerful, and a thousand times more ferocious. These men have saved the country, but they now take the lead in rapine and murder. The Irish militia, with few officers, and those chiefly of the worst kind, follow closely on the heels of the yeomanry in murder and every kind of atrocity, and the Fencibles take a share, although much behindhand with the others. The feeble outrages, burnings, and murders which are still committed by the Rebels, serve to keep up the sanguinary disposition on our side; and as long as they furnish a pretext for our parties going in quest of them, I see no prospect of amendment.

"The conversation of the principal persons of the country all tends to encourage this system of blood, and the conversation even at my table, where you will suppose I do all I can to prevent it, always turns on hanging, shooting, burning, &c., &c., and if a priest has been put to death the greatest joy is expressed by the whole company. So much for Ireland and my wretched situation."—Vol. ii., pp. 368-9.

Even to the Duke of Portland, in a secret and confidential despatch, dated September 16th, he is almost equally unreserved.

"The quick succession of important events during the short

period of my Lieutenancy has frequently diverted my attention from the pursuit of that great question—How this country can be governed and preserved, and rendered a source of strength and power, instead of remaining an useless and almost intolerable burthen to Great Britain.

“Your Grace will not be so sanguine as to expect that I am now going to tell you that I have succeeded in making this discovery. Sorry am I to say that I have made no further progress than to satisfy myself that a perseverance in the system which has hitherto been pursued, can only lead us from bad to worse, and after exhausting the resources of Britain must end in the total separation of the two countries.

“The principal personages here who have long been in the habit of directing the councils of the Lords Lieutenants are perfectly well-intentioned and entirely attached and devoted to the British connexion; but they are blinded by their passions and prejudices, talk of nothing but strong measures, and arrogate to themselves the exclusive knowledge of a country, of which, from their mode of governing it, they have, in my opinion, proved themselves totally ignorant.

“To these men I have shown all civility and kindness in my power, and have done for them all ordinary favours which they have asked, but I am afraid that they are not satisfied with me, because I have not thrown myself blindly into their hands. With the Chancellor, who can with patience listen to the words *Papist* and *Moderation*, I have invariably talked on all public points which have occurred, and I have shown no marks of confidence to any other set of men, and have particularly given no countenance whatever to those who opposed the former Government. I have at all times received the greatest assistance from Lord Castlereagh, whose prudence, talents, and temper I cannot sufficiently commend.

“No man will, I believe, be so sanguine as to think that any measures which Government can adopt would have an immediate effect on the minds of the people, and I am by no means prepared to say what those should be, which slowly and progressively tend to that most desirable object.

“I have hitherto been chiefly occupied in checking the growing evil, but so perverse and ungovernable are the tempers here, that I cannot flatter myself that I have been very successful.”—Vol. ii., pp. 404-5.

In an earlier letter to the same nobleman, he represents every class in Ireland as infected with the same thirst of blood. In deploring the ferocity of the troops, he expresses his fears that, in the Irish corps at least, it is not confined to the private soldiers. (p. 355.) He describes the Irish militia (p. 357.) as “contemptible before the enemy, but

ferocious and cruel in the extreme when any poor wretches, either with or without arms, come within their power;" adding, that "*murder appears to be their favourite pastime.*" The parliament he pronounces to be "in a temper, which makes it impossible to conduct business with credit to themselves or utility to the state;" (p. 358.) and of the feelings of all the influential classes, without exception, he speaks in a tone of almost hopeless despondency. "The principal persons of this country," he says, "and the Members of both Houses of Parliament, are, in general, averse to all acts of clemency, and although they do not express, and perhaps are too much heated to see the ultimate effects which their violence must produce, would pursue measures that could only terminate in the extirpation of the greater number of the inhabitants, and in the utter destruction of the country. The words Papists and Priests are for ever in their mouths, and by their unaccountable policy they would drive four-fifths of the community into irreconcilable rebellion; and in their warmth they lose sight of the real cause of the present mischief, of that deep-laid conspiracy to revolutionize Ireland on the principles of France, which was originally formed, and by wonderful assiduity brought nearly to maturity, by men who had no thought of religion but to destroy it, and who knew how to turn the passions and prejudices of the different sects to the advancement of their horrible plot for the introduction of that most dreadful of all evils, a Jacobin revolution."

From the very commencement of his Lieutenancy Lord Cornwallis discountenanced the settled determination of the ascendancy party to regard the revolutionary movement as a matter purely of religion. The habit of "*substituting Catholicism for Jacobinism*" as the foundation of the rebellion," met with his hearty condemnation; but he found that the spirit of the Chancellor, which he deplores in his letter to the Duke of Portland, was but too generally the characteristic of Irish Protestantism, and he was forced to confess that religious animosities were the great obstacle to any just, moderate, or lasting measures of amelioration.

One of his letters (July 26th, 1798) to the Duke of Portland places this in a very painful light.

"A proposition of an extraordinary nature was brought to me on the night of the 24th, from a number of the state prisoners, and

the greater part of the men of consequence amongst them, (a list of their names is enclosed) offering to make acknowledgement of their offences, and to submit to banishment for life to any country in amity with His Majesty, provided that Byrne and Oliver Bond, who were then under sentence of death, and Neilson, who is not yet tried, but who is likely to be condemned, might be included in the offer, and be allowed to share the same fate with them. Your Grace will observe that it is in general supposed, that there is scarcely any one of the prisoners, except Neilson, against whom there is any evidence that is likely to convict him.

"I confess that I thought this a question of the greatest importance, and one that deserved the most mature consideration, and Lord Castlereagh was of the same opinion, but we doubted whether it would be possible to find a third man in this place that would agree with us, and I was sensible of the danger of taking a step without some legal or political support, that would irritate almost to madness the well-affected part of this kingdom. There was but little time for deliberation, as Byrne was to be hanged on the 25th, and Oliver Bond this day. The Chancellor, who, notwithstanding all that is said of him, is by far the most moderate and right-headed man amongst us, was gone for a week to his country house in the county of Limerick for the recovery of his health, which has of late been much impaired, and I knew of no other of our political friends who was likely to have temper to bear even the statement of the question. I sent therefore yesterday morning, as professional men, for Lords Carleton and Kilwarden, the Attorney and Solicitor-General, and the Prime Serjeant, when Lord Castlereagh submitted to them the paper with the signatures above mentioned.

"Lord Carleton, who might in any country be considered as a cool and temperate man, gave his opinion in the most decided manner against listening to the proposal, and declared that it would have such an effect on the public mind, that he did not believe, if Byrne and Oliver Bond were not executed, that it would be possible to get a jury to condemn another man for high treason. He said that several of those who signed the papers, and particularly Dr. Mc'Nevin, might possibly be convicted, and that others might be liable to pains and penalties by proceedings against them in Parliament, and in short he gave his opinion against the measure in the strongest and most decided terms, and Lord Kilwarden and the Attorney-General spoke to the same effect."—Vol. ii., pp. 370-2.

Lord Cornwallis adds that he was not convinced by their arguments, but unfortunately, with all his firmness and self-reliance, he could not venture to act against them. "I did and still do consider," he says, "the establishment of the traitorous conspiracy by the strong testimony of all the principal actors in it, to be a matter of much more

consequence than the lives of twenty such men as Oliver Bond; but the *minds of people are now in such a state, that nothing but blood will satisfy them*, and although they will not admit the term, their conversation and conduct point to no other mode of concluding this unhappy business than that of extirpation. Aylmer and the principal leaders of the rebellion in Kildare are now in confinement here previous to their banishment, by which peace seems to be in a great degree restored to that part of the country, and although the acceptance of the submission of these people has been *a most unpopular measure*, I have consented to grant the same terms to a man of the name of Byrne, who is the most powerful and active leader of the Rebels in Wicklow." In some cases, however, he acted with greater decision and independence. We may instance one, the circumstances of which are detailed by Mr. Ross.

"A party of the Mount Kennedy corps of yeomanry, one of whom was Whollaghan, were patrolling at night. They entered a cabin occupied by a woman named Dogherty and her son, who was at that time eating his supper. Whollaghan charged him with having been a rebel, and declared he would kill him. The young man begged the soldier to spare his life, and expressed his readiness to go before a magistrate. Whollaghan however twice snapped his piece at him, and one of his comrades coming in fired and broke Dogherty's arm, although the poor mother, seeing their murderous intentions, endeavoured to seize the muzzle of his gun. Whollaghan, in spite of her prayers and entreaties, deliberately levelled at Dogherty, who was lying on the floor, and shot him dead. A permanent Court-Martial, consisting of Lord Enniskillen, President, a Major, and three Captains of the 5th Dragoons, one officer of the Fermanagh militia, and one of the 68th, was sitting at Dublin, and Whollaghan was brought before them. The facts above stated were not denied, but the defence was, that Dogherty had been a rebel, though now provided with a protection, and that Whollaghan was a very loyal subject. To prove this some evidence was tendered, and, as it was mostly hearsay, very improperly admitted. The sentence pronounced on the prisoner was, that 'this Court do find that he did shoot and kill Thomas Dogherty, a rebel, but do acquit him of any malicious or wilful intention of murder.'—Vol. ii., p. 420.

Lord Cornwallis, as soon as the proceeding was made known to him, at once directed the military secretary to address to the Commanding Officer of the district the following well-merited censure.

"Sir,—Having laid before the Lord Lieutenant the proceedings of a General Court-Martial held by your orders in Dublin barracks on Saturday the 13th instant, of which Colonel the Earl of Enniskillen was President, I am directed to acquaint you that his Excellency entirely disapproves of the sentence of the above Court-Martial, acquitting Hugh Whollaghan of a cruel and deliberate murder, of which, by the clearest evidence, he appears to have been guilty.

"Lord Cornwallis orders the Court-Martial to be immediately dissolved, and directs that Hugh Whollaghan shall be dismissed from the corps of yeomanry in which he served, and that he shall not be received into any other corps of yeomanry in this kingdom.

"His Excellency further desires that the above may be read to the President and Members of the Court-Martial in open court.

"I have, &c.,

"H. TAYLOR, Mil. Sec.

"P.S. I am also directed to desire that a new Court-Martial may be immediately convened, for the trial of such prisoners as may be brought before them, and that none of the officers who sat upon Hugh Whollaghan be admitted as Members."—Vol. ii, pp. 419-20.

Mr. Ross adds.

"Whollaghan's was by no means a solitary case. Many other trials took place in which the members of the courts-martial, influenced by similar feelings, availed themselves of every subterfuge; sometimes admitting illegal, sometimes rejecting legal, evidence, to avoid giving a just and honest decision. Among such cases may be mentioned the trial of Lieutenant ——— of the ——— militia, who, at the head of a party of his men, had committed a crime as nearly similar as possible to Whollaghan's. Though the murder took place in June, 1798, the trial was postponed to May, 1799, when Lieutenant ——— was acquitted, but some of his men were convicted, the sentence being—guilty, death. 'But it appearing that the deceased had belonged to a yeomanry corps which had been disbanded, and that he had not joined any other, the Court are of opinion that at the time the crime was committed, the prisoners did not think they were doing an improper act in putting a person that *they thought a Rebel* to death, and from their former good conduct, the Court submit to his Excellency whether they are not fit objects for mercy, and be sent to serve in a regiment abroad for life.'

"Lord Cornwallis took the opinion of the Attorney-General, as to the possibility of trying by another Court-Martial Lieutenant ———, who was evidently the most culpable, as the party acted under his orders; but receiving an answer in the negative, he recommended that the Lieutenant should be dismissed from the

service. These instances prove that Lord Cornwallis had ample grounds for the strong expressions often used in his private letters."—Vol. ii., p. 421.

But we must not, over these frightful scenes, detain the reader too long from what is certainly the most curious part of the disclosures contained in Lord Cornwallis's correspondence—the papers of 1800—1801, which regard the Act of Union. Lord Cornwallis, of course, (as indeed almost every one whose correspondence appears among his papers,) is very clear and decided as to the policy and necessity of that measure. But the main ground on which Lord Cornwallis advocates it, is the gross and all but hopeless corruption of the entire parliamentary and political system of the country. As a sample of the jobbing which was then prevalent, and the unblushing audacity with which it was pursued, we are tempted to transcribe one letter which Mr. Ross has inserted in the collection. The writer is Richard, Viscount Longueville, who had been M. P. for various Irish boroughs, from 1761 till 1795, when he was raised to the peerage. The following is one of a large collection, of the same tenor and character, preserved in Dublin Castle, and for the most part addressed to Mr. Kippax, then chief clerk in the Secretary's Department. It must be premised that the matter in dispute was the office of Storekeeper in Cork, the late occupant of which had just died, and the reversion of which had been promised to be placed at Lord Longueville's disposal. It appears, notwithstanding, that, by some secret intrigue, the late occupant of the office, being himself incapacitated for its duties, had obtained permission to sell it for £1950,—in reality to the collector of the port, but nominally to a third party. This Lord Longueville regards as a gross fraud upon himself, and he is loud in his denunciation of the parties "who got the infamous act transacted," the chief of whom was his rival in local political influence, Lord Shannon. "I had obtained," he says, "the promise for my opposition to Lord Shannon, in Lord W. and the M. of B.'s Government—I was doubly a purchaser; I had given a pecuniary as well as a parliamentary consideration for the patronage of Cork. Every man knows it cost me twenty thousand pounds at Cork to support His Majesty's measures and Ministers during and since the Regency business, and the

only compensation I received was the patronage of that district: it was held inviolate to me until now."

It is on this grievance that he enlarges in the following characteristic document.

"Lord Longueville to Charles Berkeley Kippax, Esq.

"Dec. 14, 1798.

"My Dear Sir,

"I never felt myself injured so sensibly as by the late transaction. I have a positive grant of the office Mr. Strettle enjoyed whenever he died, under Lord Hobart's hand; Lord Shannon knew it, and yet he has been the person who has made Government act *so meanly and unjustly*, so Lord Castlereagh states to me. Now I have written to Mr. Pitt and Lord W. to London, and two letters to Lord Castlereagh there, according to your advice; I shall wait the consequence with impatience.

"I have stated that *thief Pelham's misconduct* to me in full terms to them all, and dwelt much on his giving Purefoy's employment away without the promised equivalent elsewhere for the infringement of the engagement at Cork. Mr. Cooke is the man who opposes me, and, to the utmost of his power, serves Lord Shannon. I am afraid my letters to Lord Castlereagh may be stopped in Dublin, though they are directed to London. The Chancellor is the person who has made Cooke so violent and active for Lord Shannon. Lord Castlereagh in his letter to me knows nothing of the business, and he confounds it with Harrison's, which he says is ordered. No Harrison appears, or any man for him. I wish you would appear for him and get it finished.

"Now Strettle's office, which was given to me when he went to Lisbon, is given over. On his return Mr. Shaw gave him 1950*l.* for to appoint him deputy. He took chance, through Lees, to get the name of a brother inserted in the room of Strettle's. He failed unless I agreed to refund him. He then agreed with Mr. Harding, a friend of Lord Shannon, and he allows Mr. Harding 200*l.* a-year for his name and doing duty. On Harding's first application Lord Shannon wrote to him that the thing was impossible, as it was engaged to me, and desired him to think no more of it. On Lord Camden's departure Lord Shannon wrote to Harding that he had contrived to get it for him, and get him appointed in the room of Strettle, who had nothing to say to the office, having sold all his right for 1950*l.* to Shaw. My letter from Lord Hobart states that whenever Strettle died I should have the employment for my friend. Of course I had no claim until his death, nor Government any knowledge of the pecuniary dealing. The office is now 1000*l.* a-year; it has increased by the war, as the merchants have not money to pay the duties, they store them, and their own cellars are made the stores, for which indulgence they pay most liberally

Lord Shannon has not acted as I expected ; I have found the old adage true, 'a reconciled friend is a double enemy.' However, Government and that Mr. Pelham are more to blame than he is, for I well know he, Lord Shannon, will take all he can from the Government, and he cares not what scrape he brings them into.

"Send me two new almanacks of different kinds, and anything new for Christmas.

"What is become of Harrison ? On the 4th of July, 1797, Lord Camden gave me Davis's office for him. Davis recovered, and Lord Camden wrote to me that he would put Harrison into the office before he went away. Davis agreed, and now on the 14th of December, 1798, it remains uncompleted, and on account of Harrison, though I have often wrote to him.

"Most truly yours,

"LONGUEVILLE."

—Vol. iii., pp. 17, 18.

Lord Longueville is hardly an exaggerated type of the Irish parliamentary jobber of the last century. It need not be matter of surprise that this very spirit of corruption, universal as it was, was the instrument with which the Government of 1800, resolved to carry, at any cost, the measure of Union, employed for the purpose of effecting the overthrow of the system. The gross and wholesale bribery by which the Union was effected, and which embraced almost every class possessed of political influence, and assumed almost every conceivable shape of allurements, has long been a proverb. Dr. Madden's volumes contain numberless and most revolting details of the earlier and even more hateful profligacy of the Government and its officials during the progress of the Rebellion. But we owe to Mr. Ross the complete exposure of all the details of the Union intrigues, which may startle even those who had been most deeply impressed with the general truth of the popular opinions regarding it. We must leave to the reader himself the task of tracing out, through its manifold forms, the strange and disgraceful story, written in the historical records which Mr. Ross has brought to light. But it is impossible even to glance into the pages of his third volume without being struck, not only by the universality of these corrupt practices, but also by the openness and absence of all attempt at concealment, which characterised many of the actors. "Lord Castlereagh pointed out how many of the various classes affected by the plan originally proposed, might be conciliated. These were, 1st, Borough Proprietors, who

might be compensated ; 2nd, the primary, and, 3rd, the secondary interest in counties. If each county had but one member, the primary interests would still be predominant, though exposed to frequent contests, but the secondary must be destroyed. By retaining both seats all parties would be gainers, as a seat in the Imperial Parliament would be of greater value than a seat in the Irish House. 4th, Barristers, of whom there were fifty in this Parliament ; they had always considered a seat in Parliament as the road to preferment. 5th, the purchasers of seats, who might receive compensation. 6th, individuals connected either by residence or property with Dublin."

The estimated expenditure required to effect this wholesale purchase of the opponents of the measure was a million and a half, but it far exceeded that amount. In the direct purchase of the support of needy hirelings, chiefly in the class of barristers, a large sum was expended. Lord Castlereagh's correspondence with Mr. Wickham, contains repeated demands for the secret subsidies to be employed in this disreputable service. "Already," he writes, Jan. 2, 1799, "we feel the want, and indeed the absolute necessity, of the *primum mobile*. We cannot give that activity to the press which is requisite. We have good materials amongst the young barristers, but we cannot expect them to waste their time and starve into the bargain. I know the difficulties, and shall respect them as much as possible in the extent of our expenditure ; but notwithstanding every difficulty, I cannot help most earnestly requesting to receive 5000*l.* in bank-notes by the first messenger." So early as the 7th of the same month, Mr. Wickham replies (p. 34) that he has the satisfaction to say that "a messenger will be sent off from hence in the course of to-morrow with the remittance particularly required for the present moment, and that the Duke of Portland has every reason to hope that means will soon be found of placing a larger sum at the Lord-Lieutenant's disposal." In the end of the same year Lord Castlereagh expresses his hope "that the Duke will not be surprised at my requesting that you will assist us in the *same way* and to the *same extent* as you did previous to Mr. Elliott's leaving London. The advantages have been important, and it is very desirable that this request should be complied with without delay."

On the second of Jan. 1800, Lord Castlereagh writes to

Mr. King, then Secretary of the Treasury, "I am impatient to hear from you on the subject of my letter to the Duke. We are in great distress, and I wish the transmiss was more considerable than the last, it is very important that we should not be destitute of the means on which so much depends." On the 25th, he renews the application still more urgently, (p. 170). On the 27th Feb. he writes again :

" I see no prospect of converts ; the Opposition are steady to each other. I hope we shall be able to keep our friends true. A few votes might have a very injurious effect. We require *your assistance*, and you *must* be prepared to enable us to fulfil the expectations which it was impossible to avoid creating at the moment of difficulty. You may be sure we have rather erred on the side of moderation. . . ."—Vol. iii., pp. 200, 201.

On March 1st, same year, Mr. Cooke writes most urgently (p. 202) to know when the promised remittance will arrive. But some difficulties seem to have arisen, for Mr. Cooke, after seeing the Duke, writes to Lord Castlereagh (p. 226), April 5, 1800, "I have seen the Duke of Portland and Mr. Pitt a second time. The Duke is anxious to send you the needful. Mr. Pitt was equally disposed, but fears it is impossible to the extent. He will continue to let you have from 8,000*l.* to 10,000 for five years. I hope to find out to-night what sum can be sent."

This, however, was but one of the classes to which this gigantic scheme of corruption addressed itself. The great parliamentary interests were to be purchased up; partly by peerages or promotions in the peerage, partly by hard cash, in the shape of compensation for disfranchised boroughs, which were bought up (at £15000 each, apportioned when there were several joint proprietors, according to the several interests*) with a sum of £1,260,000. One proprietor, Lord Downshire, received in this way, £52,500. Twenty-two new Irish peerages were created, and nineteen peers

* The table, a most curious one, is given at pp. 321-3. The proceeds of three Church boroughs were paid over to the Board of First-fruits, and the sum of £15,000 for the borough of Swords, which was *nullius*, was expended in founding the Free School of that town, which has been the subject of so much recent disputation.

received promotion, while several others received English peerages.

Public men of less ambitious views, were conciliated by places, many of them sinecures, and pensions, or money compositions for pensions. Of thirty-two "friendly" barristers, who took the part of the Government in the meeting of the Bar, in December 1798, there were but five who, in the distribution of places, at the end of 1803, remained unrewarded.

! A still lower deep of profligacy is revealed in the following memorandum: which, however, rather regards the corruption practised during the Rebellion, than that of the Union.

"Pensions to Loyalists.

"I submit to your Lordship on this head the following:—
 "First, that Mac—— should have a pension of £300

"He was not much trusted in the Rebellion, and I believe has been faithful.

"Francis Higgins, proprietor of the 'Freeman's Journal,' was the person who procured for me all the intelligence respecting Lord Edward Fitzgerald, and got —— to set him, and has given me much information 300

"M'Guichen, who is now in Belfast, ought to have 150

"I wish a man of the name of Nicholson, whom I employ regularly, should have 50

"Darragh ought to have for himself and wife, at least 200

"(At first written 300L.)

"He might be mentioned in the Loyalist Bill.

£1000

"Swan ——

"Sirr ——

"I think it might be right to get rid of many of our little pensioners, and Major Sirr's gang, by sums of money instead of pensions. Marsden will be kind enough to confer with Sirr upon the several cases, and see which can be got rid of by a sum of money, which require stipends.

"Mr. Wilson and others recommend that Coleman should get office or pension. He lost his property, his house, &c., being burnt down by the Rebels.

"Pollock's services ought to be thought of. He managed Mac—— and M'Guichen, and did much. He received the place of Clerk of the Crown and Peace, and he has the fairest right to indemnification.

"Samuel Turner	£300
Francis Grenville Tracy	300
Leonard MacNally	300
John Guichen	150
Mr. and Mrs. Daragh	200
Edward Nicholson	50
(James) Gray	50
Mrs. (Mary) Eldow	30
(Richard) Harpur	50
(Richard) Callaghan and (Ann) wife	40
	<hr/>
	£1470
(Rev.) Gilmer	30

"These sums were given by a warrant dated December 20, 1800, but the names were kept secret—the payments being confidentially made by the Under-Secretary. None of the recipients are now living."—Vol. iii., pp. 320-21.

The "Mac——," of this memorandum, as is plain from the list which follows, was the well known popular barrister Leonard Mac Nally, "who was regularly employed by the rebels, and much in their confidence." Dr. Madden in a special appendix (ii. 567) on the subject, had fully established the treachery of this base man; but none of the documents which had come under Dr. Madden's notice, actually contained Mac Nally's name.

No wonder that in the midst of such scenes Lord Cornwallis wrote: "The political jobbing of this country gets the better of me: it has ever been the wish of my life to avoid all this dirty business, and I am now involved in it beyond all bearing, and am consequently more wretched than ever. I trust that I shall live to get out of this most cursed of all situations, and most repugnant to my feelings. *How I long to kick those whom my public duty obliges me to court!* If I did not hope to get out of this country, I should most earnestly pray for immediate death. No man, I am sure, ever experienced a more wretched existence; and after all I doubt whether it is possible to save the country.

"The leaders of the Opposition, who know and eagerly pursue their own little dirty interests, although they are so blind as not to see that they must be overwhelmed in the general wreck, have art enough to instil their own narrow and wicked sentiments into the thoughtless though selfish members, and in the hopes of getting 300*l.* or 400*l.* a-year

at a distant period, they will hazard as many thousands which they at present possess."

No wonder that we find him again declaring, "My occupation is now of the most unpleasant nature, negotiating and jobbing with the most corrupt people under heaven. I despise and hate myself every hour for engaging in such dirty work, and am supported only by the reflection that without an Union the British Empire must be dissolved. When it is impossible to gratify the unreasonable demands of our politicians, I often think of two lines of Swift, speaking of the Lord-Lieutenant and the system of corruption—

"And then at Belzebub's great hall,
Complains his budget is too small."

A curious characteristic of the time is, that in this strange contest the opposition encountered the government with their own weapons. They too, were prepared to compete with ministers and even to outbid them in the vote-market. Lord Castlereagh informs the Duke of Portland (Jan. 20th, 1800) that "a very considerable sum has been subscribed, as it is professed, for the purpose of buying seats to resist the Union. If I can believe a member of Parliament who has now a seat vacant, 4000*l.* was offered him for the return in Mr. Curran's favour. Two lawyers, of very dubious principles, Mr. Burrows and Mr. Goold, have been returned for two seats which we had reason to count upon."

And again, in February 7th, 1800, he added,

"Colonel Bagwell's desertion was altogether unexpected; he had engaged in the strongest manner to give the measure his unqualified support, and the objects he solicited were promised. His change of conduct is attributed partly to fear and partly to expectations given him by the leaders of Opposition in the event of their influence being established. Sir R. Butler, Mahon, and Fetherstone, were taken off by county cabals during the recess, and Whaley absolutely bought by the Opposition stock-purse. He received, I understand, 2000*l.* down, and is to receive as much more after the service is performed.

"We have undoubted proofs, though not such as we can disclose, that they are enabled to offer as high as 5000*l.* for an individual vote, and I lament to state that there are individuals remaining amongst us that are likely to yield to this temptation. A not less formidable principle we have to contend against is the effect produced by their system of intimidation on the minds of our timid and lukewarm friends. The Opposition have shown their determination to rouse

the disaffection of the country, and to hunt the people and the Government, and have not confined their efforts to the people alone ; both Yeomanry and Militia are held forth to shake the constancy of our friends."—Vol. iii., p. 182.

In truth the whole affair of parliamentary influence and parliamentary votes would seem to have been regarded merely in the light of a question of pounds, shillings and pence. One member, the celebrated "Dick Martin," actually put in a claim of £2000. to the Compensation Committee, on the ground that he had paid £4000. for his seat ; and that since instead of eight, he had only held it four years in consequence of the act of union, he was entitled to half the purchase money restored !

We would gladly have spared our readers this melancholy and disgraceful picture, but it is right that these truths of history should be known. Nor, with all their professions of disgust and loathing, can we hold Lord Cornwallis, and still more Lord Castlereagh, free from the shame of this flagitious profligacy. They stand condemned by the homely adage which places the receiver and thief in the same disreputable category. It is impossible to deny the great talents, and in many respects the upright ultimate intentions of both, especially of the former ; but, even by their own avowals, they stooped, on some occasions in opposition to their better judgment, to truckle to the fierce and bloody passions of the party whose ferocity and blood-thirstiness they secretly condemned, and they did not hesitate to indulge and to profit by the mercenary spirit of those whose baseness and corruption they professed to loathe.

There is one point of the negotiations regarding the Union into which we proposed to enter, but which it would be impossible to discuss satisfactorily within our present limits—the question of the Catholic claims. Perhaps we may find another opportunity of returning to this part of the subject. Nothing could be more precise and explicit than the declarations of Lord Cornwallis of the necessity, as well as the expediency and policy of concession ; and the publication of these papers establishes even more clearly than before the cruelty and treachery, as well as injustice, of the conduct pursued towards them by the English Cabinet, when the Rebellion having been suppressed, and the project of Union accomplished, they could afford to disregard the hostility of the Irish people, and to set their feelings at defiance.

ART. VII.—*Italy*—Remarks made in several visits, from the year 1816 to 1854. By the Right Hon. Lord Broughton, G. C. B. 2 vols. London: Murray, 1859.

"IT is a pretty poem," said "Slashing Bentley" to the translator of the *Iliad*, when the latter spoke of the translation as his *Homer*: "It is a pretty poem, Mr. Pope, but you must not call it *Homer*." In our day we have Mr. Whiteside's *Italy*, Mr. Dickens' *Italy*, Lord Broughton's *Italy*, and other *Italies* too numerous to mention; but of Lord Broughton's alone it can be said, that it is "a pretty book;" while, at the same time, we are bound to add, that his Lordship would do wrong to call it "*Italy*." His volumes differ from those of Mr. Whiteside and Mr. Dickens, in the essential particular of having been written by a man of letters, and by one who knew a good deal—something, at all events, about the subject in hand. His mind is better stored, even if his judgment be not better balanced than that of travelling Englishmen in general. That same is a gain. The rumble and shriek of Whiteside, and the dimpling self-complacency of Dickens, the one so hollow, the other so shallow, are about equally wearisome. Lord Broughton, on the other hand, whatever else may be said of him, does rarely tire you. He now and then plays in an odd way of his own with facts strangely jumbled, more strangely assorted, and turning up, you know not how; but they are facts all the while, and are so far worth knowing. If some of them trip you occasionally, it is only by reason of their disorder, and as they are not very hard in themselves you escape without much hurt. At times, however, it must be admitted, Lord Broughton writes things which are not facts, but without ceasing to amuse, unless when he borders upon ill nature: and at other times, as happens with the best of us, he gets a solid fact by the wrong end, and hits you nothing the less hard on that account. Lord Broughton would not be an Englishman did he fail to speak confidently of most things which he does not understand in foreign countries; he would probably lose caste altogether if he did not express a proper contempt for their institutions, and for their religion; but he should have sunk Mr. Hobhouse completely in Lord Broughton, had he

forborne to sneer at sacred things and places. Accordingly, Lord Broughton has done everything in that behalf which it is the part of a good Englishman to do: seeing, however, that he is not an atom worse than his neighbours in that respect, and all to nothing more agreeable than any of them, we shall have a glance at his Italy.

The two volumes are composed, as the author informs us, of the notes to the fourth canto of *Childe Harold*, with which every reader of that book is familiar, and of materials which, though they had been intended for the notes at the outset, outgrew the dimensions of notes, and were published by Mr. Hobhouse in a separate volume. All those Lord Broughton has worked up into his present book, with the slightest possible alteration; connecting by an occasional narrative the otherwise detached observations which make up the volumes. The narrative portion is undoubtedly interesting, although the glimpses it gives of the distinguished people, into contact with whom the author was thrown during his travels, are very short. Byron, Shelley, Madame de Stael, and Schlegel, are disposed of in the first chapter, but a tribute is afterwards paid to Madame de Stael, to which the author refers in that same chapter, and which is, therefore, what a lawyer would call, incorporated with it by reference. Lord Broughton has a singular habit; we do not know whether it is an affectation, of translating by "Mr." the corresponding term in foreign languages;—a peculiarity which, if we are not mistaken, Macaulay notices in Lord Mahon's *History of England*, where the complimentary title of "Abbé" is rendered by "Abbot." Thus we find Lord Broughton writing of *Mr. Schlegel* and *Mr. de Bonstetten*. As to Mr. Schlegel, it strikes us you might with almost equal propriety speak of Mr. Virgil, or of Mr. Shakspeare. After glory and time have both given their consecration to a name, it is stripped of all conventional frippery, as sufficing for its own adornment. Lord Broughton's travels take him along the identical ground that is overrun by hundreds, not to say thousands, of our countrymen every year, so that he has acted wisely in giving us very little about his travels as such. The most animated description of Italian scenery would provoke a not much more animated interest than we feel in Murray's *Handbook*; and we think the public ought to feel rather indebted to Lord Broughton for not having filled his book with word-painting, as the minute, and (truth to say) often

wearisome descriptions in the present taste are called. The most elaborate passages, such as the apology for Boccacio, and the chapters upon Dante, Tasso, Petrarch, and Machiavelli, are nearly reprints from the notes to Childe Harold.

The author has cancelled or altered very little of his remarks upon the political state of Italy, and just observes from time to time that such a passage was written in such a year, and that it applies equally well to the circumstances of Italy at the present day ; a way of making up a book upon Italy which has its obvious convenience. However, it is chiefly when you come to the government and religion of Italy that Lord Broughton shows ill temper, or spleen. Religion has always presented, and must always present, an unfortunate facility for jesting and sneers. Nothing can be so easily parodied as the text of Scripture, or will lend itself so readily to profane wit. As to miracles, they are also prime game, for they may be made to look equally comical, whether authenticated or not : and it would be almost a greater miracle than any of those about which Lord Broughton is facetious, were he to resist the temptation of making fun with such materials to his hand. Quite apart from his Protestantism which, to do Lord Broughton justice, does not show itself anywhere very markedly as such ; his remarks are in disparagement, unintentional we have no doubt, of religion in general ; and he appears to take the very worst characters in Italian or French history, under a very charitable patronage. We recollect to have heard or read somewhere that Don Juan is a poem of highly moral and elevating character ; and in like manner Lord Broughton makes a very earnest defence of the Decameron, and if he does not absolutely adopt the political system of Machiavelli, he evidently believes there is no great harm and much good in it. He deals almost in the same way with Voltaire, and it is perfectly evident that his charity thinketh no evil of any kind of writing that is not dull.

Lord Broughton wrote originally at a time when cant was just as prevalent as it is at present, but when statistics were much less cultivated. He belonged to that old radical party of which he himself, Lord Byron, and the Hunts were the leaders. No doubt they effected great good in their time, and we owe them thanks for many reforms, but it is not to be disputed that Protestants as

they were, Tom Paine was perhaps of greater authority with them than the Bible, and that in their comprehensive dislike of priestcraft they made no great distinction between Protestant and Popish parsons. Some of the old radicals were men of business, direct and practical; others, like Lord Byron, were men of genius and enthusiasm; while others, like Hobhouse, were men of taste and refinement, but without any great depth of thought, feeling, or information. Much of Lord Broughton's bitterness against the Church and government of Rome may be accounted for in this way. A loiterer along the roads of literature, without definite aim or purpose, picking up whatever he found upon the surface, but not a delver or explorer; a curious collector of shining pebbles, not a geologist with scientific specimens; he had no real materials wherewith to correct his early prejudices, which, as they were connected much more with the taste than with the judgment, proved, as they always do under like circumstances, more difficult to get rid of. It is easy to clear a garden when the weeds are tall, and of moderately quick growth; but when they propagate from a shallow root, and run along the ground, they are the despair of gardeners. A serious and systematic collector of statistics will, by the bare necessity of the thing, cure himself of many prejudices, no matter how strong; but when the taste only is concerned prejudice becomes invincible. Now, Lord Broughton's taste for the works of ancient art is one in which we completely sympathize; but that he should expect all people at all times, since the decay of Rome began, to have exactly the same kind of taste, is somewhat unreasonable, and an expectation that would hardly exist in the mind of a philosophical historian. Lord Broughton would seem to wish that a church had never been built in Rome, rather than that a single column should have been borrowed from an old temple already in ruin for the adornment of a Christian Church. Indeed he says in terms that wherever you see a church in Rome you have before you a monument of the destruction of some ancient building. In the course of his inquiry into the causes of the destruction of Roman monuments, he manages to connect the Popes with it in some way or another, from the time of Attila; and actually makes them responsible for everything that was done by their rebellious subjects, as well as for what might, with more or less fairness, be charged upon themselves. What strikes us as pecu-

liarly disingenuous in this proceeding, is, that the reader is led to believe that the disorganization prevalent in the Roman territory was owing to some inherent vice in the Roman government; whereas Lord Broughton cannot but have known that at the period to which he refers every kingdom in Europe was torn asunder by the great and little wars in its great and little feudatories. Even where tradition, which in matters of this kind is rarely astray, has ascribed to various of the Popes a certain protecting influence over the public monuments, Lord Broughton delights to pick holes in the tradition, and show that each of the Popes was nothing better than an Attila, or Tottila in his generation, and that whether in Rome or in Avignon, the Pope was the destroying angel of Roman antiquity. Lord Broughton appears to have taken a lesson from little Flanagan, in the "Good-Natured Man." "D——n the French and all that belongs to them," exclaims the patriotic bailiff. "What makes the bread rising? The parlevous that devour us.—What makes the mutton five-pence a pound? The parlevous that eat it up.—What makes the beer three-pence halfpenny a pot?" Or if we come nearer down to Lord Broughton's own contemporaries, the constancy and relish of his attacks upon the Papacy, and indeed upon Christianity in general, remind us of Lord Byron's old enemy, hoarse Fitzgerald, who is so cleverly caricatured in the "Rejected Addresses."

"Who burnt (confound his soul) the houses twain
Of Covent garden and of Drury lane?
Who while the British squadron lay off Cork
(God bless the Regent and the Duke of York)
With a foul earthquake ravaged the Carracas
And raised the price of dry goods and tobaccos?
Who makes the quartern loaf and Luddites rise?
Who fills the butcher's shops with large blue flies?
Who thought in flames St. James's court to pinch?
Who burnt the wardrobe of poor Lady Finch?
Why he who forging for this isle a yoke
Reminds me of a line I lately spoke
The tree of freedom is the British Oak."

Before however, we come to the serious portion of Lord Broughton's *Italy*, suppose we look at a little that is simply entertaining, and gives no scope for the author's pet antipathies—or indeed for his peculiar predilections, which

are almost as doubtful in their character. His description of the performance of the famous Italian improvisatore Sgricci is just such a description as you would like to hear, and may have heard from a friend, in what Dickens calls the cosy hour after dinner, and which, when it is not stretched to a cosy four or five hours, is one of the most admirable of British institutions. The description is interesting because it is natural and truthful, nor can we dissent from the author's views as to the paltry though surprising character of those performances, and their injurious effect upon the beautiful language whose musical structure lends itself, like all good things of this world, to abuse.

"Whilst we were in Milan 1816, the celebrated Sgricci the improvisatore made his appearance before the critical audience of Lombardy. His visit had been announced, and his praises loudly trumpeted by the Bologna Gazette, where it was proclaimed that he had refused the crown of Corinna as premature, but would accept 'the well-deserved tribute when he had obtained the suffrages of all Italy.' The novelty and the challenge filled the Scala theatre. We were present in Mr. De Breme's box, where an amusing running commentary kept us awake during a performance on the whole rather dull, and broken by intervals more frequent and long than usual on the stage. It opened with music, and whilst the orchestra were playing, some of the audience handed in folded papers, inscribed with subjects for the poet's ingenuity, to a person who shortly retired behind the scenes. The stage was then for a time empty, and the music ceased. The audience became impatient and so eager for the show, that when a man came forward and appeared with much ceremony carrying a vase in his hand, they took him for the poet, and applauded loudly. He was a servant who placing the vase on the table withdrew. Then entered a man in mourning and a boy who took up their positions solemnly at the opposite ends of the table. The first trial of skill was to be in 'versi Sciolti,' and the man in black read aloud the verses inscribed on each paper, and then folding up the papers threw them into the vase. The audience manifested their opinion of the papers sometimes by applause, sometimes by loud laughter; but it seemed to us that those subjects, most of them classical or historical, were understood by a much greater number of persons than might be expected to be found in a very large well filled theatre, promiscuously filled by an audience paying only fifteen-pence a-head. At last all the papers being folded up, and thrown into the vase, which was then sufficiently shaken to secure fair play, the boy with averted head lifted up his hand, as was the custom at our celebrated lotteries, and dipping it into the vase drew out a paper. The man opening the paper read aloud the proposed theme, 'the

taking of Algiers'—a happy if not a suspicious chance selection, the place having been taken a few months before. The attendants now withdrew and the table was removed. The anxiety for the commencement of the performance became intense, and broke out into loud clapping of hands. At last SGRICCI appeared and was received with shouts of applause. He was fantastically dressed, His long black hair flowed wildly over his face and shoulders, and his neck was bare. He wore yellow Turkish slippers. He began at once to pour forth his unpremeditated verse, invoking, as he said, not the Greek muse, but the muse of Mount Libanus. The classical Deities were however very soon put in requisition, and we heard a good deal about Amphitrite and Aurora. The poem ended with a speech from the liberated slaves, and this was the only circumstance that distinguished the taking of Algiers from any other successful seige. The recitation lasted nearly a quarter of an hour, and the Poet did not hesitate for a single moment. As he withdrew, much applause was heard. The attendants with the table and vase again make their appearance and the same ceremonies were observed as before. The subject chosen for the 'terze rime' was the Artemisia at the tomb of Mausolus. Sgricci again appeared. His action was more vehement than before and his poetry not less fluent; but we heard very many rhymes in 'ente' and 'etto.' A little child of the Queen of Caria added pathos to the distress of her majesty, and Aurora was again introduced to console the weeping widow, but nothing was said about the ashes of Mausolus, nor of the tomb giving a name to all superb sepulchres. The performance continued for about the same time as when attacking Algiers, but he was less applauded than for the siege. He withdrew and the assistants came forward and read the subjects proposed for the great trial, the touchstone of genius, the tragedy. The themes sounded like ancient bills of mortality. Deaths of kings, queens, heroes, patriots, and poets, quickly succeeded each other. None found favour with the audience, but the Apotheosis of Victor Alfieri was received with thunders of applause. It did not however turn up, and the paper chosen by the Lottery boy was the 'death of Socrates.' There was a long pause, after which Sgricci came upon the stage, and hoped another lot might be drawn, as the 'benissimo pubblico' would probably think with him, that the death of Socrates was not 'tragediable.' A tragedy has, however, been written on this subject. The audience consented to have another lot drawn, and the boy pulled out 'the death of Montezuma.' Sgricci reappeared, and saying that he could not reconcile the adventures of Montezuma with the manners of Italy, protested, that of the two, he preferred Socrates. On this, the audience became very noisy; some called out for Socrates, others for Montezuma, and after a good deal of clamour, the lots were a third time tried, and 'Eteocles and Polynices' drawn. Even this subject 'tragediable' enough, seemed to disconcert the poet, who continued so long silent, that

the audience began to hoot and whistle, and again called for Socrates and Montezuma. At last Sgricci was inspired; he told us that his scene was in the palace of Thebes. His personages, Eteocles, Polynices, Jocasta, Tiresias, and Manto, with a chorus of Theban women. Tossing up his head and hands, he then began versifying in one character, and when he changed to another, he walked to the side of the stage. He gave a tolerable copy of the description in Æschylus of the chiefs before Thebes, and was much impassioned in the part of Jocasta; but the audience gave evident signs of impatience, and before the tragedy was concluded, had partially left the house. Though at the end of the fifty minutes, during which this surprising exhibition lasted, there was some applause, the tragedy was considered a failure, and the whole performance did not satisfy the Milanese. One friend of the Romantic School, spoke of it with the utmost contempt, but Menti and Perticari patronised Sgricci, and during his performance were behind the scenes to inspect the papers and take care that no offensive subjects were introduced amongst them. What La Bendetina, or the great Roman Improvisatore Jianni, may have been able to perform I know not, except by the printed poems of the latter, which, if they were really spoken without premeditation, exhibit talents far superior to those of Sgricci, when we heard him. A judgment of his power, in this way, may be formed by those who read his tragedy which he afterwards published in 1827, I believe. He probably selected for the press that which he thought the best of his spoken dramas.

"I think I discover, in a charming work on Italy, Forsyth, an inclination to admire those performances; and he goes so far as to discover signs of improvisation in Homer *himself*, or rather *itself*, from the frequent recurrence of the same verses. That the Homeric verses were sung by the Rhapsodists ages before they were committed to writing, no one, I believe, denies; but there is a wide difference between unwritten, and unpremeditated poetry, and it is hard to believe that any number of the Homeric, or any other Greek verses, such as we now read them, were composed and spoken at the same moment. The same may, I presume, be said of all poetry of the highest class, and whatever may be the comparative merit of the Italian Improvisatori, from Serafino d'Acquila down to Signor Sgricci, I never heard but one opinion from men of real judgment, with regard to this capacity. They all lamented that encouragement should be given to mediocrity in that department of literature, in which, by common consent, mediocrity is not to be borne. The marketplace is the proper stage, and the guitar the proper accompaniment for such effusions, and even the drawing-room may be enlivened by extemporary trifles in verse; but the tragic muse, like the heroines of romance, requires a long and assiduous courtship, and the stage is degraded by exhibitions resembling the real master-pieces of dramatic poetry, in nothing but their inferior properties, the metre, and the rhyme.

"A second exhibition of Sgricci several years afterwards, when he gave his forty-third extemporary tragedy at Venice, did not alter my opinion, either as to the poet or his performance. He gave us the Earl of Essex, whom he called 'Odoardo,' and as he pretended he knew nothing of the story, it was told to him somewhat incorrectly aloud by a person from one of the boxes of the theatre. The Queen Elizabeth of Sgricci, made war upon France. The tragedy lasted two hours. When I went, half the audience had already fled."—Vol. I. pp. 43-9.

Lord Broughton has an interesting chapter specially entitled, on the destruction of the monuments of Roman antiquity, and on the causes which led to it; but we find observations upon the same subject, in connection with several of the great Roman structures which are noticed by the author singly. Where the matter is not such as to attract his lordship's stronger prejudices, and where the reader feels that he may be trusted, the learning of those passages will be found curious and not unprofitable. When the Popes come into action the case is quite altered, and they are made responsible for every stone that is chipped in their city. Whatever they do or forbear to do, in peace or at war, at Rome or in Avignon, Lord Broughton would have it understood that they were the real destroyers of Rome. It is easy to make a respectable induction by giving one instance or so of dilapidation, out of every third or fourth reign, without saying whether the dilapidation was not a mercy to the citizens and perhaps to the monument itself; and no doubt it would have been a gratification to Lord Broughton to dismount Attila or Tottila from his pedestal, and to elevate Gregory the Great thereto. However the thing has proved such a failure in other hands, and the fact has been so long established, that Gregory was the reverse of what he had been represented to be by John of Salisbury, that Lord Broughton admits, with tolerably good grace, the claim of St. Gregory to have his character set right. In this particular instance it would be too compromising for Lord Broughton's own character that he should include Gregory the Great amongst the demolishers of Roman monuments. It is likely, all the while, that had not others effectually vindicated the reputation of St. Gregory, Lord Broughton would have classed him amongst the Vandals with as little hesitation as he has shown in the case of any other Pontiff. Six hundred years after his death St.

Gregory was accused for the first time of having forbidden the study of mathematics, set fire to the Palatine Library out of a particular grudge to Livy, and broken down the monuments of pagan antiquity, lest the attention of travellers should be diverted from objects of religious interest to the study of antiquity. John of Salisbury, the author of that most unauthenticated report, gave it currency, nevertheless, with half the world, until some of the sturdiest enemies of Christianity, vexed with the nonsense of the thing, discredited the fable so far that even Lord Broughton could not turn it to account. Still the originator of the calumny professes to give it upon no higher authority than that of a nameless tradition, "*traditur a majoribus*:" whereas Lord Broughton, by putting forward his facts nakedly, and often without note or reference, pledges his own name to these otherwise uncertified allegations. In course of time he too may be quoted as an authority for what is found in his book, and he may be destined to give some trouble to honest and laborious men even of his own views, who would like him to come right, but cannot make him do so. It would be scarcely worth while to repeat the process of refuting stories that turn up again positively the fresher and stronger for being refuted. We might refer not to any particular number of this journal, but to the *Dublin Review* *passim* for illustrations of what we have said. The only further thing necessary to be observed upon this matter is, that Lord Broughton has brought as many unauthenticated allegations in proof of his favourite theory, whether from books, from hearsay, or from imagination, as could be crowded within the compass which he has allowed himself. We do not mean that this applies strictly to all that he has said with reference to the destruction of Roman monuments, and to the use which may have been made of the remnants of antiquity by the Roman Pontiffs, whether for church building or for secular purposes. Undoubtedly the materials of the old buildings were often applied by the Popes in the way stated, but we have no reason to believe either that the buildings from which the materials had been so taken were not unsightly and perhaps dangerous ruins, or that the demolition was not unavoidable upon very different grounds. Nay, it is quite plain that the existence of those ruins in their integrity, if we may so speak, was not compatible with the existence of a city in the same place; and it is equally plain that for a great

many purposes the existence and growth of the new city, to say nothing of the dominion of the Popes, must have contributed to the preservation of many of the monuments as well as to the destruction of some.

The portions of the entire book which might possess most interest for many readers are those referring to Italian literature, with which Lord Broughton appears to be more than moderately well versed, although it is not with him as with Roscoe, a ruling passion or taste. These passages are, however, as we have already remarked, almost a close reprint from the notes to the fourth Canto of *Childe Harold*, and will therefore be passed over by the generality of readers on their way to something with which they are comparatively unfamiliar. No abuse of the Roman government can be unfamiliar to our British subject at the present day. We believe Mr. Spooner himself must be surfeited with the affluence of information he gets upon this point from newspapers, pamphlets, and lectures.

There is, in the second of Lord Broughton's volumes, a passage on the government of Rome well worth preserving, although by no means unique, for it shows how a man of learning will run shallow, and a man of taste become vulgar, when prejudice unsettles his judgment and disorders his imagination.

"The Papal government is the jest and the riddle but is certainly not the glory of the world. The existence of such a system even in a country where the welfare of the community seems never to have been considered, is a standing miracle. From the foot of the Alps to the extremities of Calabria, despotism has assumed various shapes, more or less offensive in the eyes of those accustomed to the enjoyment of liberal institutions. But there is something absurd and fantastic in the forms and in the very external appearances of the Papal sovereignty, which is not to be met with beyond the Pontifical state, and the full ridicule of which can only be felt at Rome. A priest may become a throne no less than a woman, and Sixtus Quintus, in his way, was a monarch no less respectable at home and formidable abroad than our own Elizabeth. A perpetual succession of women, however, would not be tolerated by any nation; and since the Popes have lost that influence in other countries which gave dignity and importance to their character, it seems unaccountable that some of the fairest portions of the Italian peninsula should be subject to the dominion of a priest chosen by priests, administering his power by priests, and coming

into contact with his subjects only when in the performance of his clerical functions.

"Even when at the height of their power the Popes, with few exceptions, maintained but a questionable authority at Rome, either as men or as sovereigns. The Romans fond, as has been said before, of their religion, have seldom been distinguished for attachment to the head of their Church and state; and although there was a generous sympathy for the sufferings of the two last who bore the name of Pius, and a very natural aversion for foreign dominion, yet the salutary changes introduced by the French, and the present insignificance of the Popedom in the eyes of Europe, must, it may be thought, have fully awakened the Romans to the humiliation as well as the misfortune of being subject to an authority different in its very nature and outward show from that of any portion of the civilized world.

"If under this theocracy there were a tolerably impartial administration of justice, if the lives of persons and the properties of citizens were secured by any contrivance, it would be no great hardship to submit to the anomaly of receiving laws from the altar instead of from the throne. But the reverse is notoriously the case, and there is scarcely a single principle of wise regulation acted upon or recognized in the Papal States.

"Leo XII. visited hospitals and convents, and all ecclesiastical establishments at any and all hours of night and day. He punished a baker who supplied bad bread to the poor of the Spirito Santo. This personal superintendence of the monarch was extolled to the skies by some worthy Roman, who did not see in such conduct an unequivocal sign of bad government, and who thought it quite a proof of generosity that the same Pontiff should send a present of 200 crowns to the judge who presided at the condemnation of the Carbonari.

"The first principles of criminal jurisprudence seem as much forgotten or unknown as if the French code had never been the law of the land; a secret process—a trial by one judge and a sentence by another—protracted imprisonment—disproportioned judgments—deferred and disgusting punishments, all tend to defeat the ends of justice, and to create a sympathy with the culprit rather than a reverence for the law. Useless rigour or pernicious lenity,—at one time a whole town razed to the ground for having sheltered robbers—at another a gang of the same banditti conciliated by a treaty with the Cardinal Secretary of State in person—suspected Carbonari hanged at Ravenna—convicted murderers pardoned at Rome—such were the consequences of the restoration. But this is not all. The revenue of the state, raised by a thousand independent, conflicting, and almost arbitrary authorities, impoverishes and vexes the people more than it enriches the government. All taxation, all commercial regulation, seems to be the effort of some momentary whim or caprice, instead of being such as can be anti-

icipated by prudence or made tolerable by skill and industry. Not long ago, (in the reign of Leo XII.) an ingenious attempt was made to improve upon the prohibitory system by prohibiting the importation of certain articles of the first necessity, which no home manufacture could possibly produce,—a second edict exposed and remedied the blunder. The lottery is a fruitful source of revenue. The Roman and Tuscan governments entered into partnership for this pious purpose : the lowest stake was three baiocchi and a half; and as if to make some amends for the immorality, a 'povera zitella' has sometimes a dower given to her of 200 or 300 crowns. Efforts have been made to reform the judicial character, by adding to the salaries of the lawyers on the bench. The usual pay of the judges was about eighteen crowns a month; it was made two hundred '*senza le incerte*,' that is to say, with no allowance of those bribes and presents which was formerly not only connived at, but openly permitted to be given by the suitors in the courts."—Vol. ii., pp. 234-7.

With a passage like this, serious criticism is out of the question. Supposing it to have had any meaning thirty years ago, the author has taken no pains to see that it should have some application to-day. He has indeed the candour to admit that the passage was written in 1828, but he adds that he saw very little to alter in 1854, except that there was more general discontent apparent in the latter than in the former year. It is quite possible that Lord Broughton saw little to alter in his judgment of the Roman Government; but the man who wishes to say he cannot see the sun, has only need to shut his eyes. Lord Broughton has only to shut out all existing facts and statistics from his view, and if he were right in 1828, he will of course be right in 1859. Lord Broughton has done just what we have said; he has done what his countrymen are in the habit of doing every day, he has done no more than the bulk of them, but we should have expected him to do better. In truth this condemnation of the Roman Government, whether as applied to the government of 1828, or that of 1859, is made up of statements either simply false, or very debateable at best. To put the matter upon the lowest ground, suppose we turn some of the boldest of Lord Broughton's propositions into mere questions; and to begin, let us ask in his own words: *Is the Papal Government the jest and riddle of the world?* Taking it to be so, St. Paul said very nearly the same thing of the Cross of Christ, and it was nothing the worse

for that, and not the less victorious. But is the Papal Government such a jest and such a riddle? Napoleon found it no jest, and he read the riddle cunningly enough, when he said you should deal with the Pope as if he had a hundred thousand men in the field. Austria certainly did not, and does not regard it as a jest; witness the Concordat, about which, thank heaven, we have heard so little for some months. England, if at all disposed to treat it as a joke, does seem to consider it an exceedingly practical joke, when played off upon herself, as in the case of the ecclesiastical titles for instance, when she went off into fits, that made *her* the jest and riddle of the world. Russia, and her terrestrial deity, Nicholas I., were exceedingly serious when brought face to face with Gregory XVI. Prussia was in no jesting mood during the progress, or at the close of the Cologne Controversy; and the Grand Duchy of Baden, a few years ago, found it ill jesting with Herman Von Vicari. Is it a jest to the France of to-day, to Spain, to Portugal, to America? and if not, those nations, great and small, form a rather considerable portion, even of Lord Broughton's world. Now let us ask again, in the author's own words, whether the Popes *have* lost that influence in other countries which gave dignity and importance to their character? and is not the question the same in substance with the last? Observe, Lord Broughton does not make any qualification or reservation, he does not say that the influence of the Popes has gone down greatly, wholly, or considerably, but that it has been lost absolutely. Is that so? Let us take another statement. *Does* the Pope administer his power by priests, and does he come into contact with his subjects only when in the performance of his clerical duties? The total number of clergymen, exclusive of chaplains, employed in the administration of the Roman States, in the year 1856, was 110; the number of laymen, 6,836. The salaries of all the clergymen, including 179 chaplains, of prisons and hospitals, amounted to 124,256 dollars; the salaries of lay officials to 1,491,389 dollars. Lord Broughton states avowedly that the Pope administers his power, meaning *all* his power, by priests, meaning by *none but priests*, and with these statistics before us, which we are bound in charity to assume Lord Broughton had not before him, we may fairly ask, is that true? We have then to ask, are the lives, the persons, and the property of

the Roman citizens, notoriously secured by no contrivance, and is there scarcely a single principle of wise regulation acted upon or recognized in the Papal States? Is this true in substance and in fact? or is it true that the tenant farmer in Rome has better protection for his property than the tenant farmer in Ireland, or even in England? Is it true that in the Roman States every man, how low, or how high soever his condition, can sit under his own vine and eat his own fruit without challenge or interruption? Is it true that the infamy of British law, in the case of O'Fay v. Burke, has never been paralleled in Rome or elsewhere? Is it true life is as insecure in Lincoln's-Inn-fields or even in Holborn, after nightfall, as on the least secure of the Italian highways? Is it true that the principle, if not the full application of free trade, was recognized and practised in Rome before it was recognized and practised in England? Passing over what may be regarded as mere scandal, perfectly unauthorized and unauthenticated, and referring only to such of Lord Broughton's statements as have regard to principles of government, and the condition of the country, we are astonished to find him charging it as a crime upon the Roman administration of the law, that one judge tries the prisoner, and another passes sentence, when exactly the same thing takes place in our own jurisprudence, where one tribunal is the judge of fact, and another is the judge of the law, and passes sentence accordingly. Many of Lord Broughton's statements are such that one positively grudges the trouble of verifying or refuting them. Where you find a man speaking upon some matters, without any knowledge of facts, or with something like a wilful distortion of them, you are quite at liberty to presume against his fairness upon other matters. But once again, referring to a matter of common notoriety, is it true *now*, if it was *ever* true, that the revenue of the Roman States, raised by a thousand independent, conflicting, and almost arbitrary authorities, impoverishes and ruins the people more than it enriches the government; or is it true that in 1826, two years before this libel was written for the first time, and when its original publication was almost more inexcusable than its present republication, Pope Leo XII. had actually reduced the taxes to a considerable extent, and *still maintained the income in excess of the expenditure*; and is it true that after the revolution of 1848, after a ruinous

issue of revolutionary paper, upon which Lord Broughton is quite competent to set a value, after the total disorganization of the finance, with a diminution of the customs amounting to more than a fourth of the entire, the Papal Government has, within seven years after its own restoration, restored the revenue too; and from 2,943,589 dollars, to which it fell, in 1849, raised it to 5,346,039 in 1856, with scarce any additional taxation? Is it true that at this moment, the Roman population is, relatively to its resources, not one-third as heavily taxed as the population of England, and that the expenses of administration are less heavy in the Roman State, with its three millions, than in the kingdoms of Wurtemberg or Greece, with not half the population?

The next charge laid to the account of the Roman Government is, that having gone a step too far in the protective system, which is followed by nearly all Europe at the present day, it retraced its steps, and "in a second edict, exposed or remedied the blunder." We could understand a complaint, that feeling and knowing the blunder, this impracticable government persisted in it notwithstanding, but it is something new to blame prince or people for reforming vicious legislation. If it be wrong to do that, and to do it in the clumsiest way, our own is the guiltiest government on earth. Scarce a Session closes that we do not pass an act to amend an act, or to amend and explain an act, passed in the previous Session of Parliament, and entitled an act to amend another act passed in the Session before that again. And lastly, we have a further reform recorded against the Papal Government, and horror of horrors, a reform introduced without any compulsion or agitation whatever. The Judges, as was the case all over Europe, at no distant period, were in the habit, the allowed and recognised habit of receiving presents from the Suitors in their Courts, after the termination of the Suit, much as our own special juries are paid by the party in whose favour they have given a verdict. The Roman Government saw the impropriety of this course, and put an end to it summarily, and in compensation raised the salary of the judges from £72 a year to the (for Italy) very handsome amount of £480. Now it will be observed that Lord Broughton states the naked and odious fact of the Judges having received presents in money or otherwise, in a way that would lead one to believe the Roman Government

was the only one in Europe which tolerated such a practice, or in which such a practice could be tolerated, although the universality of the practice on the Continent ought to have been known to the author, or he should at least have made some inquiry into its existence elsewhere than in Rome. Charles Butler has a chapter upon the subject in his "*Reminiscences*," with reference to the practice in France, where, under the parliaments, it was not only customary to give presents to the judges; but the judicial office itself was purchased like a commission in our army, where by the way the existence of the system of purchase sufficiently proves that governments, considering themselves the most enlightened, may be, upon certain points, the most backward and stupid in the world.

Butler shows very plainly in the chapter alluded to that in France at all events, the practice to which Pope Leo put an end in Rome, was chargeable with indelicacy at most, but not with corruption. The moral height, however, from which Lord Broughton surveys the doings and misdeeds of the Roman Government, is too airy to admit of his discerning small objects such as these. His thoughts have nothing to rest on but the horizon. Then, too, it must be borne in mind, the public, in its present temper at least, does not require accuracy from any writer upon Italy. You must be abusive if you desire to be read. The King of Naples, the Emperor of Austria, and the Pope, have got a conventional character and dress in English popular literature, of which it would be hopeless to strip them. You might as well hope to put Hamlet's Soliloquy into the mouth of the Clown on boxing night, or to array Pantaloon in gown and bands, as to present Pope or Emperor to the British public in any dress not of British manufacture. To be sure there are some writers capable and well informed, as well as honest, who write for the few, and who, in distant times, perhaps may be read by the many; but until such good times come, crudities like those of Lord Broughton will be relished and praised, good sense and truth to the contrary notwithstanding.

ART. VIII.—*Tradition et Raison*. Par Mgr. Parisis, Eveque D'Arras, de Boulogne et de S. Omer. Paris : Lecoffre et Cie. 1858.

AS the subject of the controversy which has elicited this brilliant pamphlet from the pen of the Bishop of Arras, has been rarely brought under the notice of the general reader in this country, we shall premise a brief statement of its import and bearing.

The question at issue, though not unconnected with Theology, is mainly of a philosophical character, and involves several interesting problems in psychology. Stated plainly it comes to this:—is man's intellectual nature capable of self-development, or is some extrinsic guidance, some *institutio aliena* absolutely required to calls its latent powers into action? Suppose a child, cut off from all social intercourse since its birth, with its physical wants at the same time duly supplied, so that it grows up to healthy and vigorous manhood, without having ever had a single ray of intelligence coming to it from another soul bearing the image of God like itself; suppose the mind thus entirely thrown upon its own intrinsic resources, could it in this condition attain even the lowest degree of perfection worthy of a rational creature? Could it make such progress as to carry on a train of reasoning? Could it distinguish between good and evil, and appreciate the nature of moral responsibility? Could it form a distinct idea of its Creator, and of its own sublime destiny? or, on the contrary, should its higher powers remain for ever dormant, and should it be restricted to mere perception and sensation, and those modes of exercise of the faculties which are in great measure common to us with the lower animals? Such is the question to the solution of which Mgr. Parisis addresses himself in the able and interesting work before us.

As a variety of other questions of an essentially different character and tendency, have been warmly discussed in France and Italy, under the same name as the present, it may be well before entering upon an analysis of Mgr. Parisis' profound and masterly argument, to place before the reader a very brief and rapid history of the chief phases of what has been called "Traditionalism."

The utter and inherent imbecility of Human Reason, its absolute unfitness to attain a sure knowledge of even the plainest and easiest truths, had never, as far as we are aware, been seriously maintained before the sixteenth century, except among professed sceptics. The early Fathers and Apologists of Christianity, indeed, sometimes dwell with marked emphasis upon the natural feebleness of the intellect, and denounce the philosophical speculations of their time as the offspring of heathen folly and pride. Thus, Hermias, in the *Irrisio Gentilium Philosophorum*, exposes with merciless ridicule the numberless inconsistencies and contradictions of the Greek Philosophers; St. Irenæus (*Adversus Hæreses.*) describes the extravagant tenets of the Gnostics as legitimately deduced from the principles of Pagan philosophy; Tertullian, (*contra Hermogenem*, cap. viii.) with characteristic acerbity signalises “philosophers as the Patriarchs of heresy;” and even Lactantius, the Christian Cicero, (*Divin. Institut.* lib. iv. et vii.) pours out a flood of eloquent invective for the purpose of lowering the arrogant pretensions of Reason, and awakening it to a wholesome sense of its infirmity. But the primitive Fathers, though justly anxious to abate the inordinate and fallacious claims of Reason, and to reduce every intellect into the captivity of the New Dispensation, were by no means disposed to make Pyrrhonism the high-road to faith. They were, on the contrary, one and all, free to admit the prerogatives of Reason, if it only confined itself to its proper sphere. It is unnecessary to recal the names of Origen, of St. Augustine, of St. Isidore, of Venerable Bede,—all distinguished themselves for the philosophic depth and subtlety that characterized many of their speculations. Several of the Fathers earnestly recommend the study of ancient philosophy, when pursued with due circumspection, and describe in glowing terms the advantage to Christianity which might be made to result from such pursuits. Thus St. Augustine,

“Doctrinæ omnes Gentilium non solum simulata et superstitiosa figmenta gravesque sarcinas supervacanei laboris habent, quæ unusquisque nostrum duce Christo de societate gentilium exiens debet abominari et vitare, sed etiam liberales disciplinas usu veritatis aptiores, et quædam morum præcepta utilissima continent, deque ipso Deo colendo nonnulla vera inveniuntur, apud eos, quod eorum tanquam aurum vel argentum, quod non ipsi instituerunt sed de quibusdam quasi metallis divinæ providentiæ, quæ ubique

infusa est, eruerunt et quo perverse atque injuriose ad obsequia dæmonum abutitur cum ab eorum misera societate sese animo separat, debet ab eis auferre Christianus ad usum justum prædicandi Evangelii."

In fact, not to multiply quotations,* it is merely necessary on this point to refer to the testimony of Brucker, who is not at all anxious—as must be evident to any impartial student of his great work—to exaggerate the merits of the Fathers in favour of philosophy.

"Et hoc quidem argumentum est earum commentationum quas pro religione Christiana scripserunt doctores ecclesiæ meritissimi, Justinus, Tatianus, Athenagoras, Theophilus, Hermias, Clemens Alexandrinus, Hippolytus, Origenes, Eusebius et Græci alii: Tertullianus, Minucius Felix, Cyprianus, Arnobius, Lactantius, Julius Firmicus, Maternus, Ambrosius, Augustinus, alique Latini, ut deperditorum nomina taceamus. Quorum apologias legenti mire placebit acumen virorum doctorum, Græcos philosophos propriis telis aggredientium, et non sine pudore confundentium."*

The opinions held by the Doctors of the Church during the Middle Ages, did not tend to the disparagement of reason. On the contrary, it is not an unusual charge against the Schoolmen that they had an overweening confidence in the inherent power of the intellect, that they too much overlooked Sacred authority, and indulged to an extravagant degree in subtle refinements and elaborate ratiocination. Have we not heard that a senate of these same schoolmen gravely deliberated on the propriety of canonizing Aristotle? The story to be sure is an extremely ridiculous one, not unlike some of the clumsy fictions that garnish Dr. Robertson's Introduction to the History of Charles the Fifth; but it is at the same time an indication that, at least in the judgment of their enemies, the Schoolmen had not learned to stigmatize human reason as hopelessly imbecile.

But with the sixteenth century came a change. The Reformation was in truth, as has been so often, but not too often said, unlike any other heresy, any other revolution,—for more, far more than any other, it resembled the great apostacy of the fallen archangel. It was not a denial of a single dogma, but an open and direct rebellion against

* Brucker. Period 11. Lib. 1. Cap. 11. De Philos. Veterum Christianorum.

the supreme authority of God. It was an attempt to set the throne of the creature against that of the Creator,—to make the individual or private judgment outweigh His sovereign and eternal truth. Hence, in Christian countries, where Protestantism has to any considerable extent been propagated, it is always the forerunner, nay, the parent and nurse of religious indifference, if not of positive infidelity.

It is not strange, then, that men who are really convinced of the value of Divine Faith, who are really alive to the great truth of the Apostle, that "without faith it is impossible to please God," or to escape an everlasting Future of Misery, should look with horror upon the spread of this Lutheran principle of private judgment, subversive as it is calculated to be from its nature, and as it is proved to be in its results, of all belief in Revelation. It is not strange that a sincere Christian should denounce and execrate such a principle. It is not strange that men of ardent and enthusiastic temperament, in their zeal to expose its falsehood, its danger, its thousand evil consequences, should be unconsciously carried beyond the limits of rigid doctrinal truth, even while observing all the forms of most dispassionate and philosophical controversy. We are not surprised when the spirit of social rebellion is let loose upon a country, effacing all its ancient landmarks and uprooting its time-honoured institutions, to observe even men of enlightened patriotism, men animated by a generous love of freedom, anxious that despotism itself should supersede and terminate the wild license of a mob. Still less should it be matter for wonder that the great religious rebellion of the sixteenth century, originating as it did in the principle of making each man's private judgment paramount to the authority of God's revealed Word, and thus aiming by a single blow at the entire overthrow of the Kingdom of Christ, should lead some few to deny the claims of human reason altogether, and attack its just and natural prerogatives.

It was in this spirit that Huet, the celebrated Bishop of Avranches, sought so to depreciate Reason in the *Alentaneæ questionnes de Concordia rationis et Fidei*—and in several of his writings, but more especially in a well known posthumous treatise entitled *De Imbecillitate Rationis Humaneæ*. In these works it is openly maintained that the human intellect, if not strengthened by divine faith, is

absolutely incapable of arriving at a knowledge of the simplest truths, and that universal scepticism would be inevitable. The arguments advanced by him in support of this extraordinary thesis, are at least as old as the time of Sextus Empiricus. The mind, we are told, is indeed competent to act upon the material furnished by the senses; but how proverbially and avowedly fallacious is not the testimony of the senses? As in a poem, or in a well-wrought fiction, the characters are made to preserve a certain consistency throughout the piece, and each incident is made to follow the other with due regard to time, and place, and circumstance, though the ground-work of the whole is altogether shadowy and unsubstantial, the mere creation of the artist's fancy,—so reason works the material supplied to it with consummate skill, with a nice regard to the connexion between conclusion and premises; but whether this material itself be a reality, or only the dream of a dream, faith alone can finally assure us. To satisfy his readers that there is nothing singular or novel about this speculation (for indeed it seems passing strange) Huet cites from the history of Philosophy, a long array of great names, nor is he at pains to conceal that they were all disciples of the Academy, and professed sceptics.

Huet, however, as a Christian Bishop, was bound to answer an objection to his system which could not have been urged against the ancient Pyrrhonists, namely, how revelation itself could be received by a consistent upholder of his opinions; and he does not shrink from the difficulty.

“*Si ratio adeo sit infirma ut incertum sit quidquid suadet, cum suadeat ratio suscipiendam esse fidem, incertum erit an suscipienda sit fides; cumque ratio sit aditus ad fidem ob credibilitatis motiva quæ præbet si labefactetur ratio fides ipsa labefactata corruet.*”*

To this he speciously replies that faith is like the light of heaven, not merely revealing its own presence, but enabling us to see a thousand objects of which, without

* “If reason be so infirm that what it suggests for our acceptance is uncertain; then, whereas reason teaches that we should admit revelation, it becomes uncertain whether revelation is to be admitted; and again, whereas reason points the way to faith by establishing the motives of credibility on which revelation rests, if reason fall powerless—then is faith itself undermined—and must fall tottering with it.”

its enlightening aid, we should remain for ever in darkness, and in ignorance. And accordingly, he adds, at the same moment that faith is infused into the soul, and illumines what had previously been blank and dark, we can perceive the force and sufficiency of the motives of credibility in that divine effulgence which accompanies faith itself.

We shall not pause to analyze the doctrine thus propounded, and maintained by the illustrious author of the "*Demonstratio Evangelica*." The arguments which he adduces to prove the imbecility of Reason, had already been advanced a thousand times before him, and had certainly been a thousand times demolished. At best, they are but adroit puzzles, and could scarce ever have made a *bona fide* proselyte. Nature and common sense revolt against them and proclaim how puerile and frivolous they are. As to Huet's views regarding the relations between Faith and Reason, the subject is of too profound a character to be dealt with in an incidental manner; we shall therefore omit the discussion of it altogether, and confine ourselves to the following general remarks on his doctrine:—1st. It is plainly false and suicidal, because it rejects philosophical evidence, and attempts to substitute in its stead a criterion which, after all, is itself necessarily amenable to evidence. 2nd. It overturns the motives of credibility upon which Revelation rests, not only by representing it as impossible to establish the sufficiency of these motives, but, in fact, by making it impossible to prove that there are any real motives of credibility whatever, sufficient or insufficient. 3rd. However pure, however excellent may have been the intentions of the distinguished writer in upholding this extraordinary speculation, it is unquestionably dangerous to faith, and leads *per se* to scepticism, irreligion, and infidelity.

A philosophical system, closely resembling that of Huet, was proposed during our own time by the Abbé Bautain, but it quickly fell under the censure of the Holy See; and the eloquent Abbé at once proceeded to retract and remodel the obnoxious portions of it.

An analogous, though entirely distinct form of Traditionalism was advocated by Lamennais. The history of that unhappy man has now become almost as trite as a schoolboy theme, so we shall not enter into a review either of his history, or of his opinions. It may be matter for surprise, indeed, how those opinions, at bottom so

extravagant and absurd, could have ever found so many adherents, adherents, too, more distinguished for intellectual eminence, and lofty enthusiasm, than even for number. But the temporary popularity of Lamennais' fanciful dreams may be easily explained. There can be no doubt that, during his early career, he had rendered most signal service to the Church in France. At that time the reign of infidelity or indifference was almost universal in his country, and even in the few places to which that reign had not extended, the evil influence of Jansenism operated in its stead, and made religion appear not as a sweet yoke, or a light burden, but a harsh, gloomy, and oppressive despotism. Hence, the voice of the gifted priest, when first raised on behalf of truth, of religion, of the rights of the Holy See, sounded like accents of inspiration amid the din of false oracles and the muttering of the prophets of Baal. Rarely, if ever since the days of the Fathers of the Church, was there brought into the field of religious controversy, such vast erudition, such splendid eloquence, so much profound and subtle thought as we find in the celebrated essay, "*Traité sur l'Indifférence en Matière de Religion*;" and in the treatise "*La doctrine de l'Eglise sur l'Institution des Evêques*," a work less generally known than the former, but abounding in noble passages, and throughout characterized by patient historical research, and luminous reasoning, the absolute dependence of the entire body upon the Head of the Church is asserted and illustrated with a force which even "a kingly Gallicanism" could not withstand.

So highly were the Abbé's services in the cause of religion appreciated at Rome, that Leo the Twelfth resolved upon elevating him to the sacred purple; and when at a creation of Cardinals, the Pope informed the consistory that among those whom he had reserved *in petto*, to be afterwards proclaimed Princes of the Holy Roman Church, was one, "a man of great talents, an accomplished scholar, whose writings, drawn *ex authenticis fontibus*, had not only rendered great service to religion, but had delighted and astonished Europe," it was almost universally understood at Rome, that his Holiness had referred to Lamennais. No wonder that a writer of such learning and eloquence, who had upheld the rights of the Holy See with such intrepidity, who had gathered around him

such a bright band of Catholic disciples—the flower of the intellect of France—who had his services so markedly and emphatically recognized by the Head of the Church;—no wonder that the whole early career of Lamennais should serve as a guarantee for the orthodoxy of his opinions, until it had been authoritatively declared that these opinions were false and dangerous.

It is not improbable that, at least in the commencement, even Lamennais himself overlooked the inherent absurdity of his doctrine in his anxiety to establish the consequences which it seemed to him might be immediately deduced from it. The audience which he addressed, the adversaries with whom he argued, and whom he sought to convince, were not men who professing to admit revelation, and every part of revelation, yet with strange perversity utterly denied revealed doctrines. Those with whom he had to deal were for the most part downright Infidels, or worse than Infidels, Indifferentists. They were men disposed to call in question even the primary truths of Natural Religion, and who if they did not overtly and boldly reject, at least sneered in silence at the idea of a Providence, a Future State, and Moral Responsibility. Now, the criterion appealed to by Lamennais,—and upheld by him as the one ultimate test and standard of truth, the *consensus generalis* of mankind,—would suffice to establish beyond doubt the existence of an overruling Providence, of a Future State, and the responsibility of human agents. The easy and important triumph thus achieved against the infidel probably blinded Lamennais himself for a time to the radical and almost transparent unsoundness of his theory, and was certainly the main cause of seducing many to embrace or tolerate that theory even for a single hour.

Nor must we overlook the fact, that some of the Abbé's more enthusiastic admirers pretended to trace a certain affinity between the rule of philosophical truth proposed by him, and the Catholic rule of Faith which consists in the infallible authority of the Church. The supremacy of authority, they contended, was upheld in his system, and it was argued that if individual reason be insufficient to attain a knowledge of the primary truths of natural religion, it is, *a fortiori*, an insecure and incompetent guide where there is question of the whole body of revelation, or even of any one of its sublime mysteries. The authority of the Church, however, as judge, witness, interpreter, and guar-

dian of revealed doctrine, has nothing in common with the fictitious authority dreamed of by Lamennais. The Church has received her prerogative of infallibility for a *supernatural end*, and that prerogative was also *supernatural* in its *institution*; the "*consensus generalis*," recognised by the Abbé, and set up by him as the basis of all knowledge and all certainty, is in every respect human and natural. The authority of the Church is not only directive, but also binding, and as they say in the schools, *coercitive*;—that is, the ordinance of God imposes upon conscience the obligation of accepting the Church's doctrine and teaching, and they who resist that ordinance purchase to themselves damnation. The authority proposed by Lamennais may, on the contrary, be obeyed or rejected just as we approve or disapprove of its dicta. Again, the dogmatic authority of the Church resides in the *Ecclesia docens*,—i.e. in an œcumenical Council, or in the Sovereign Pontiff himself defining *ex Cathedra*; the authority propounded by Lamennais resides in the whole human race, and can be made known but by the unanimous declaration of mankind. The authority of the Church is conversant only about matters of faith, morals, discipline; the authority set up by Lamennais is necessary to assure a man that he experiences hunger or thirst,—that he knows his most intimate friends—that, in short, he apprehends anything whatever as certain.* The Church

* "What philosophy is there," he exclaims, "whose pretensions are not all uncertain, all false? The senses deceive us, and attest nothing that can be termed clear, positive, complete. Feeling is not more sure; its object, although in appearance more evident and more simple, still unless we are on our guard is nothing less than a continual series of doubts and illusions. As to reason, it is to be still more suspected; for, first of all, it only operates upon the data furnished by the senses or the feelings, (data upon which it cannot count,) and secondly, when the data are at hand, how does it operate? and what guarantee have we of the legitimacy of its procedure? What are we to think of the contradictory conclusions which it draws from the same principle? what of the identical ones it draws from different principles? What truth has it not denied? what error has it not established? In a word, must it not associate memory with all its operations? and is memory a faithful ally. Reason, feeling, sense! faculties without control! vain means of gaining knowledge!—principles of error

of God is in her teaching under the immediate guidance of the Holy Spirit, and therefore can never err; the opinions of men, even when long established and widely diffused, are frequently dictated by prejudice, or passion, or interest, and consequently calculated to mislead. There is nothing, therefore, in common between the infallible, divinely constituted authority of the Catholic Church, and the *sensus Communis* appealed to by Abbé Lamennais.

We have attempted to account for the ephemeral popularity of the heterodox opinions of Lamennais; we may add that immediately after their condemnation by Gregory XVI. all, even his warmest adherents, abandoned him. It has been beautifully and most justly observed by Cardinal Wiseman, in reference to the illfated Abbé, that never had the head of a religious school so much of fascinating power to draw the genius, energy, devotedness, and sincerity of ardent youth about him; never did any so well indoctrinate them by his own principles as to make them invincible by even his own powers. He was in this like Tertullian, who when sound of mind, prescribed medicines too potent for the subtle poisons which he dealt out in his heterodox insanity. Into such disrepute did the opinions of the Abbé fall, immediately after their condemnation by the Holy See, that one of the usual arguments advanced by the opponents of every form of Traditionalism was, that it bore a fatal resemblance to the Traditionalism of Lamennais.

The question of Traditionalism discussed by Mgr. Parisi has nothing but the name in common with the Traditionalism vindicated by Huet or Lamennais. In the theory of Lamennais, as well as in that of the Bishop of Avranches, the inherent powers and resources of the intellect are supposed to have been already developed—the reason, memory, imagination, all the faculties of the mind,

and incertitude. These it is which deprive man of all hope of having either knowledge or faith from himself; there is for him no reality, either within or without; there is nothing *up to the very truth of his own existence*, in which he has any right to believe, unless he has some other reason than his own private sentiment and his own individual consciousness." This other reason consists, of course, in the *consensus generalis* of mankind.—See Morell's *History of Modern Philosophy*, vol. ii. p. 285.

cognitive, elaborative, constructive,* by whatever names psychologists choose to designate them, it may be assumed, have been long in operation, and have undergone the highest training of which they are capable. But no matter how judiciously cultivated, or how fully developed they are, truth still lies beyond their reach, unless the aid of authority, the general consent of the human race, should be invoked to point it out, and rescue them from a scepticism which, without such extrinsic guidance, would be their inevitable doom. Huet and Lamennais, if we may use the illustration, assume that the ship has been already fairly launched, that the canvas is spread, and all her bright gear before the sun; but so many sharp rocks threaten on one side, or the storm rages so wildly on another, or it may be that, when there is calm, the song of syrens comes over the waters with such magical and dangerous sweetness, that there can be no hope of safety, not even for a single hour, unless the steady hand of authority ever holds the helm, and shapes the vessel's course.

Mgr. Parisis contemplates the mental faculties in quite a different condition, and in entirely different circumstances. He discusses not the possibility of their making progress, after having been called into action, but the means necessary to their being at all exercised. He does not entertain the question whether the mind, if once in pursuit of truth, is of itself capable or incapable of attaining it; but rather how it is awakened to a consciousness of its own powers, and how it comes to take the first step in search after truth. To recur to our nautical illustration, it is the launch, and not the vessel's after course, that occupies his attention. And for that launch, according to Mgr. Parisis, and the school of Traditionalists, of whom we now speak, extrinsic aid is indispensable to the mind as well as to the ship. If abandoned to its own inherent resources, the mind, too, would remain for ever little better than a useless log on the strand, before which stretches out the great sea of speculation. Though capable of being impressed with the fairest and brightest characters, without extrinsic aid it would for ever continue a desolate blank. If, however, in the pursuit of knowledge, Mgr. Parisis insists upon the necessity of authority, we

* See Sir Wm. Hamilton's *Lectures on Metaphysics*.

should remember that it is only for the outset, for the mere starting; while Lamennais requires authority to guide every step of the journey.

The difference of purpose, then, for which authority or tradition is appealed to in both theories, plainly shows that there is no affinity,—in fact, nothing in common but the name between them. But they also differ most materially in another point of view, namely, in the nature and character of the authority which they respectively demand. The authority insisted upon by Huet is, in fact, the infallible dogmatic authority of the Church in matters of faith,—while Lamennais makes the natural *consensus* of mankind the one necessary rule and criterion of philosophic truth. Absolute scepticism, scepticism quite as extreme as that of the Pyrrhonists, is the immediate logical result of either doctrine; because if you set out with the assumption that reason is incapable by itself of knowing anything as certain, it follows that reason can never be legitimately convinced either of the existence of an infallible authority in religion, or of an “universal consensus” among mankind. The philosophical criterion, therefore, proposed by Huet and Lamennais, was practically a myth, a phantom island, which the traveller was doomed to see ever receding before him, and ever eluding his most ardent pursuit. Not so the criterion advocated by the Bishop of Arras. He enforces the necessity, it is true, of some extrinsic guidance, the aid of some intelligence distinct from our own; but the teaching of parents or guardians, in short, intercourse with any rational nature, is sufficient. The only difficulty that can arise in this view, would have reference to the mode of developing the faculties of the first man,—and on this point Mgr. Parisi judges that, at least with Christian readers, it will be no disparagement to his theory that he insists upon as a psychological necessity what we know from the inspired narrative, to be an unquestionable fact,—namely, that God Himself conversed with our first parents, and consequently did Himself instruct them, and bring their faculties to maturity;—if indeed, the creation and development of those faculties had not been simultaneous. That the authority required by Mgr. Parisi, is in practice easily accessible, and, as a matter of course, is always exercised in unfolding the power of the mind (except, perhaps, in some extraordinary and abnormal cases to which we shall have occasion to refer

immediately) is indisputable ; but the question remains—is the influence of such authority necessary ;—in other words, is the intellect absolutely incapable of spontaneous development ?

The principal arguments advanced by the Traditionalists, in support of their view, may be brought under three classes: those of the first profess to be derived from actual experience, and to rest upon a sufficiently wide induction ; those of the second are founded upon the connection between thought and language ; and the arguments of the third class upon which Mgr. Parisis mainly dwells in the work before us, take their force from analogy. A complete volume would scarce suffice for a suitable treatment of those arguments, and this, we trust, will be accepted as our apology for the very imperfect manner in which we are compelled to deal with them.

I. The first class of arguments is furnished by the history of a number of unhappy children, who, at different times and in different places, grew up to physical maturity, having been cut off since their birth from all social intercourse with their fellow beings, beyond the supplying of mere corporal wants. This history is dwelt upon at great length by several writers, but is stated in a compendious and forcible manner by a distinguished professor of the University of Louvain, from whose learned and able work on Logic, we transfer the following (alleged) facts ;—pre-mising that M. Ubaghs is himself a decided and almost vehement Traditionalist.

1st. Herodotus* gives us the history of an infant whom Psammeticus, King of Egypt, had brought up in such manner that he should never hear the sound of human voice, and the result was the absence of any degree of intelligence that could raise him above the level of irrational creation. Father Juvenciust† relates that Ackebar, Emperor of the Moguls, anxious to ascertain by experiment to what religion nature, if left entirely to herself, should incline the human heart, had no less than thirty children brought up in similar seclusion from all social intercourse ; and when, after a probation of many years, they appeared in the presence of the imperial psychologist,

* *Hist. lib. 11. c. 2.*

† *Hist. Soc. Jesu, part v. lib. 18.*

and were interrogated by him, they were found to be dumb and stolid as so many fishes; and beyond their human shape, it was impossible to detect one attribute of humanity. The worthy Jesuit father appeals to the testimony of F. Jerome Xavier, nephew of the great apostle of the Indies, in confirmation of this extraordinary story. In addition to the above, we may refer to the more recent history of Gaspar Hauser, the infant of Nuremberg, and to the history of the unfortunate children alluded to by Puffendorf *de Jure Naturæ et gent*, lib. 11. c. 2. s. and to perfectly similar histories mentioned by several other writers of respectability and eminence.

2nd. The condition of deaf-mutes, though not at all so deplorable as that of the wretched beings we have been noticing, serves to throw considerable light upon the question with which we are concerned. The deaf-mute is not entirely and cruelly relegated from commerce with his kind; the sense of vision forms an inlet by which he receives a number of impressions that bear a meaning with them, and thus he holds at least an imperfect, and partial communion with his fellow man. He beholds on every side a variety of signs and gestures, to some of which nature herself attaches a peculiar signification. And yet with these comparative advantages, we believe that the state of the deaf-mute, without some artificial form of instruction, specially adapted to his wants, would be almost as lamentably akin to that of the irrational animal, as was the condition of Gaspar Hauser, or the girl Leblanc, mentioned by Dr. Feller. (*Dict. Hist. art. Blanc.*)*

Experience is thus alleged as furnishing the basis of a most cogent argument in favour of Traditionalism. The poor children who grew up apart from all human intercourse, deprived of all human instruction, are regarded as fair types of human nature, and what was their destiny, would, it is maintained, have been, in the same circumstances, the destiny of any other among the sons of men,

* For proofs of the truly miserable condition of deaf-mutes without the aid of some artificial form of instruction, see *L'Histoire de L'Academie des Sciences* for 1703—DE L'ÉPÉE *Vritable maniere de instruire les sourds muets*; SICARD, *Cours d'instruction d'un sourd-muet*; DE BONALD, *Legisl. primit.* tom. 1 et 2.

the fate alike of a "Newton or a Styles." There is no fair ground to presume that in the instances enumerated by the advocates of Traditionalism any one of the children laboured under radical imbecility of mind, such as with the advantage of ordinary culture might cause him to be signalised for stupidity among his fellows. On the contrary, some of them were no sooner admitted to their natural privilege of intercommunion with their brother men, than they at once gave proof that the attribute of godlike reason had not been dead, but only unawakened in them, and that they very plainly belonged to the class of the "animal sagax, providum, memor, plenum consilii et rationis."* Their lamentable deficiency, therefore, was owing entirely to the want of competent instruction, the want of communication with beings endowed with intelligence like themselves. Still less can it be affirmed that the many deaf mutes, who at least in past times, and before Catholic charity and Catholic zeal had made suitable provision for their melancholy wants, were but too frequently allowed in this country to pass their lives without any adequate or enlightened attempt to alleviate their privation, still less, we say, can it be argued that if they betrayed painful dullness, and impotence of comprehension, it was owing to any inherent defect of mind. Without going in quest of examples beyond the precincts of our own great and truly noble Catholic Institution for the Deaf and Dumb in Ireland, it is abundantly manifest that there are several whose lips and ears are sealed for ever, and yet the breath of life breathed into the frail clay by God, the spirit within made unto the image and likeness of its Creator, is as capable in them of admitting the rays of the Eternal Light, which enlighteneth every man coming into this world, as if it had pleased their Father in heaven to make them speak with a tongue that might command the applause of senates. And yet, notwithstanding the great natural capacity for acquiring knowledge evinced by some of the inmates of the Institution for the Deaf and Dumb, it seems to be a well established physiological fact, that without the care of zealous and enlightened instructors, that capacity would have remained latent, and as if really barren, would never have put forth fruit. The obvious consequence, according to the Traditionalist, is that culture or

* Cicero.

suitable instruction is the necessary means, the absolute and indispensable condition for the development of the powers and resources of the mind.

3. It is asserted by the Traditionalists that every man, even in the most favourable circumstances, when enjoying the perfect use of the senses, and receiving the most suitable instruction *ab extra*, supplies in his own individual character an illustration of the necessity of some *institutio aliena*. For are we not all influenced by first impressions and early associations? How firmly and how long do we cling even to the errors and absurdities of our first teachers! Is it not a well-known fact that our early apprehension of abstract truths is more or less correct, according to the accuracy of the language employed by those who were our first instructors?

II. The force of the argument in favour of the Traditionalist view derived from the connexion between thought and language plainly depends upon the solution of the two following important and difficult questions, 1. is thought—i.e. the knowledge of supersensual or abstract truth—of God, virtue, duty, moral responsibility, &c. possible without the aid of language? 2. Could man, if left to his own resources, have invented language? Both these questions the Traditionalist resolves in the negative.

1. To determine the exact relation between thought and language is certainly, to our apprehension, among the nicest and most intricate problems in the whole course of metaphysical speculation. Instead, therefore, of attempting a formal discussion of the question in these pages, we shall be content with placing before our readers the result at which some of the most eminent thinkers of modern times have arrived on this subject. We shall begin with De Bonald, who is very explicit indeed, and very decisive on the point. “L’homme,” he says, “ne peut parler sa pensée, sans penser sa parole.”* De Stolberg† writes, “By means of speech man holds communion not only with others but with *himself*,” an idea in perfect accordance with Plato’s definition of reasoning, (Theæt and Sophist) where he teaches that “when we

* *Rech. Phil.* t. 1. c. 8.

† *Betrachtungen und Beherrigungen der Heiligen Schrift.* vol. 1. s. 6. n. 17.

reason we hold converse within ourselves." Condillac himself does not hesitate to affirm " nous ne pensons que avec des mots." Ancillon may be quoted to the same effect,* " Il faut penser pour inventer les langues, et sans les langues il n'est pas possible de penser; car on ne pense pas sans notions, et les notions ne peuvent être fixées que par les mots." Damiron also is of this opinion,† " Que l'homme ne peut avoir des idées, de véritables idées sans mots, rien de plus constant." We cannot omit Dege-
rando, " Le langage n'est pas moins nécessaire à l'individu isolé pour le développement de ses facultés et l'acquisition de ses connaissances, que pour ses communications avec les autres hommes."‡

The authority of Leibnitz is clearly on the same side, for he calls language " le miroir de l'entendement."§

* *Essais de Philos. &c.* vol. i. c. 4.

† *Hist. de la Phil. art.* De Bonald.

‡ And again, vol. i. p. 73. he says, " L'homme a aussi peu inventé le langage, qu'il s'est inventé lui même, car toute invention suppose un dessein, une volonté, un choix de moyens. Mais la pensée a aussi peu précédé le signe que le signe a précédé la pensée. L'une ne peut pas exister sans l'autre. Les représentations individuelles et particulières pouraient avoir lieu indépendamment des termes qui les expriment, mais les idées générales sont impossibles à concevoir, et à former sans les signes qui seuls réunissent leurs traits, fixent leur vague existence et leur donnent de la réalité.

§ B. Cogitationes fieri possunt sine vocabulis.

A. At non sine aliis signis. Tenta, quæso, an ullum arithmeticum calculum instituere possis sine signis numerabilibus?

¶ B. Valde me perturbas, neque enim putabam characteres vel signa ad ratiocinandum tam necessaria esse.

A. Ergo veritates arithmeticae aliqua signa seu characteres supponunt?

B. Fatendum est.

A. Ergo pendent ab hominum arbitrio?

B. Videris me quasi præstigiis quibusdam circumvenire.

A. Non mea hæc sunt, sed ingeniosi admodum scriptoris.

B. Adeone quisquam a bona mente discedere potest, ut sibi persuadeat veritatem esse arbitrariam et a nominibus pendere cum tamen constet eandem esse Græcorum, Latinorum, Germanorum, geometriam.

A. Recte ais, interea difficultati satisfaciendum est.

"Without speech," says Hobbes, "consisting of names or appellations, and their connexion whereby men register their thoughts, recal them when they are past, and also declare them one to another for mutual utility and conversation: without such speech there had been amongst men neither commonwealth, nor society, nor content, nor peace, no more than among lions, bears, and wolves. The first Author of speech was God Himself."^{*}

"I assert," writes Dugald Stewart, after a lengthened investigation of the subject, "that in so far as our speculations consist of that process of the mind which is properly called reasoning, they may be carried on by words alone."[†]

In fact we do not hesitate to affirm that it is almost the unanimous opinion of philosophers that, if not without articulate speech, at least without some artificial contrivance, some kind of symbolical mechanism, it would be impossible to carry on a train of reasoning, or attain any high degree of intellectual perfection.

2. To establish the Traditional view, it is necessary not only to prove the dependance of thought upon language, but also to show that man, if left to his own resources, is incapable of inventing language; and here we are brought to another of the many *questiones vexatæ* of psychology. The Epicurean theory on this subject is as degrading as it is unphilosophical and absurd—and the man who, with Virey or Volney, should labour to trace back his own origin to some wonderful plant or fish, insect or reptile, † must of course expect to have his career

B. Hoc unum me male habet quod nunquam a me ullam veritatem agnosci, inveniri, probari animadverto, nisi vocabulis vel aliis signis in animo adhibitis.

A. Imo si characteres abessent, nunquam quidquam distincte cogitaremus, neque ratiocinaremur, &c. &c.—Leibnitz *Dial. de connex. inter res et verba*. *Œuv. Phil.* Ed. Raspe. p. 509, &c.

^{*} *Leviathan*, cap. 4.

† *Philosophy of the Human Mind*. Part I. c. iv. on Abstraction.

‡ "Cum prorepserunt primis animalia terris
Mutum et turpe pecus."—*Hor. Sermones*. Lib. i. 3.

"D'autres, hereusement en petit nombre, font encore l'homme par les seules forces des agens physiques, de la chaleur du Soleil, et des

crowned by a destiny worthy of such exalted antecedents. Condillac admits on the authority of the inspired narrative that our first parents were actually endowed by God with the gift of speech, but contends at the same time that even if left to their natural resources they had themselves the power of inventing it. And accordingly this admirer and disciple of Locke is at great pains to expound and illustrate the process by which even the *mutum et turpe pecus* of the Epicureans might advance step by step until at length they should have framed for themselves a most perfect and complete language. The illustrious De Bonald has brought to bear upon the investigation of this interesting subject a mass of information, a patience of research, a power of analysis which make his immortal work the great *thesaurus* from which students after him are compelled to select their best materials, on whatever side of the controversy they may chose to range themselves. And it is the clear conviction of this profound philosopher, that man, with his unaided natural resources, could never have succeeded in inventing a language worthy of the name, or in bringing it to any appreciable degree of perfection.

It should be carefully remembered that the true question at issue in reference to the origin of speech, is not whether man, given the primary elements of language, is capable of so moulding, combining, compounding them as to form a variety of idioms, and in course of time a variety of languages. The real question is, whether, if left to himself, he could ever succeed in inventing, or to speak more accurately, in creating those elements themselves. We are decidedly of opinion that the weight of evidence is altogether in favour of the negative, but as we cannot discuss the matter *ex professo*, we shall be content with the following observations.

1. Though several attempts have, at different times and in different countries, been made by men of the most conspicuous ability to invent a new language, that is, not to form a new idiom or new dialect out of preexisting mate-

succé de la terre, d'abord plante ou poisson, insecte ou reptile, ayant tout à acquérir pour devenir homme, âme et corps, pensée et parole, et ayant tout acquis à force de temps et de circonstances favorables."—Œuvres de M. De Bonald. vol. viii. c. iv. p. 120.

rials, nor engraft a new branch on an old stem, but to create a new speech, even to the roots and elements, the attempts have invariably resulted in the most signal and indeed ludicrous failure. If any philosopher were ever competent for such a task, we should imagine that the genius and vast acquirements of Leibnitz preeminently fitted him to accomplish it. The great Teutonic Titan did undertake the task, and brought all his gigantic strength and matchless skill to bear upon it. His purpose, however, we should remark, was apparently a modest one. He did not dream of inventing a language suited even to the daily exigencies of life, much less capable of bodying forth the creations of the poet, or the fervid inspiration of the orator. He was merely intent upon founding a new form of speech, capable of conveying the simple, dry dicta of abstract science. And Leibnitz, like all who had trodden the same path before, or since, failed, and failed egregiously. The genius, then, able to create a new tongue, even for the most restricted requirements, has still to claim the homage and admiration of the world.

2. It will not be denied that languages, the languages in common use, have not been created to-day, or yesterday; it is clear they have been transmitted. We are compelled to take them as we find them, and in employing them conform to the laws and conditions imposed by usage. Reason is forced to accept this necessary instrument, just as Tradition has furnished it, and even the simplest and most elementary sciences are not independent of it. And with regard at least to modern European languages, (the authentic origin of ancient languages, without the light thrown upon it by the history of the Dispersion, would baffle the most elaborate researches of philology, and should in fact be regarded as lost in the night of time,) they are clearly formed out of common elements, and are therefore to be considered a work, not of creation, but of arrangement and combination. At best they evince only the skill of the builder, using pre-existing materials, oftentimes heterogeneous enough; materials, however, which he merely brought together but did not produce. For instance, it cannot be doubted that the Italian, Spanish, and French languages are so many dialects growing out of the gradual corruption of that tongue, which had been once universally spoken in all the Western provinces of the Roman Empire. They have come to

deviate from the original in various degrees, but owing to nearly similar causes. The retention of words and forms of speech which had been in use before the subjugated provinces had seen the Roman eagles, the admixture of these words with the polished language of the conquerors, vicious pronunciation and orthography, neglect of grammatical rules, the inroads of the Northern nations, who brought their native tongue as well as their barbaric courage, into the fairest portions of the great falling empire, these and other causes pointed out by philosophers, suffice to explain the difference between the three languages we have alluded to, while the identity of their origin cannot be controverted. Du Cange, in the preface to his Glossary; Muratori, in his 32nd, 33rd, and 40th dissertations on Italian Antiquities; M. Raynauard, in the first and sixth volumes of his *Choix des Poésies des Troubadours*, give us an ample account of the formation of these languages, and prove clearly that they are but different branches of the same stock.

3. If, says Mgr. Parisis, we carefully analyse the structure of modern languages, we cannot fail to trace therein an influence and an agency similar to that which pervades the works of God in the physical order. As the chemist, for example, recognises in the most elaborate and complicated physical substances, nothing more than the assimilation and union of a few simple elements, so the patient philologist, analysing the most difficult and artificial forms of speech, discovers that they have been constructed out of common primitive materials.

“De part et d'autre, ce sont des élémens qui se décomposent et s'assimilent pour se recomposer. Ainsi ce sont des mots latins, grecs, celtiques, tudesques, gaulois, etc. etc. qui d'abord se rencontrent, parce que les peuples qui les parlent, s'étaient eux-mêmes rencontrés. Peu à peu ces mots tendent à faire entre eux comme une espèce d'alliance; ils se modifient de part et d'autre pour mieux s'accorder; puis arrivent, on ne sait d'où, certaines formules nouvelles auxquelles personne n'a pensé, certaines particules auxiliaires, certains agencemens de phrases, qui tous se combinent pour arriver à un certain ensemble, et, quand cet ensemble est atteint, la langue est faite, sans que personne ait pu dire, même pour la plus petite part: 'C'est mon ouvrage.' Quelques esprits viendront plus tard donner à l'œuvre un certain poli, et nous avouons sans peine que le génie de l'homme sait perfectionner une langue: mais la

créer, jamais il ne l'a su—Dieu s'est réservé ce droit.”—pp. 60-61.*

The weight of philosophical authority is entirely in favour of the view that it is not within the power of man to invent language. Instead of accumulating quotations, we shall merely refer the reader to a highly interesting work on the subject *Du Langage et de Son Role, &c.*, published by Lecoivre in 1852, where he will find an admirable summary of the views on the origin of language, held by philosophers from Plato and Aristotle, down to modern times. The author, M. Jehan, is a member of the Geological Society of France, and of the Royal Academy of Sciences at Turin, and gives the reader abundant data to decide for himself how completely authority is for the opinion that man is incapable of inventing speech.

III. The chief argument advanced by Mgr. Parisi, is founded upon analogy. The illustrious prelate seems to assume that if we exclude the necessity of Tradition, instruction, some kind of *institutio aliena* and hold that man is capable of attaining knowledge without any such aid, we then virtually ascribe to man an absolute creative

* As a specimen of the style in which Mgr. Parisi's work is written, we may give the following extract on this same subject of the origin of language.

“Un des caractères qui n'appartiennent qu'aux œuvres de Dieu, c'est l'unité dans l'infinie variété. Un arbre, revêtu de milliers de feuilles, n'en a pas deux qui soient entre elles parfaitement semblables, et cependant il n'y en a pas une qui ne représente toujours le genre d'arbres auquel elle appartient, tellement que la méprise est impossible, et que la feuille du figuier ne ressemble jamais à celle de la vigne. Eh bien, il en est de même des langues. La manière d'y associer les mots est également comme infinie, et de tant de milliers de pages écrites par diverses personnes dans le même langage, il n'y en a certainement pas deux qui, composées séparément, expriment les mêmes idées dans les mêmes termes; et cependant prenez-y la première phrase venue, portez-la n'importe où, jamais ou ne la pendra nulle part pour une phrase d'une autre langue. N'est-ce pas bien l'infinité dans l'unité? Quel est donc l'homme qui oserait se lever et dire: Oui, je suis capable de faire une telle œuvre? Que l'on voie les ouvrages qui viennent vraiment des études de la raison et que l'on compare.—Quoi qu'il en soit, il est certain qu'ici l'histoire constate, sinon l'incapacité absolue, du moins l'absolue stérilité de l'esprit humain. Jamais il n'a produit une langue,” &c., &c.

power, the power namely of creating ideas, not merely of combining, associating, analyzing, compounding ideas, but the power of educating them *ex nihilo*. Now creative power, whether God might or might not, if He so willed, communicate it to finite beings, is, as a matter of fact, strictly reserved to the Deity. All productions of the creature not only suppose preexisting materials, but require moreover, cooperation *ab extra*; and that it is so Mgr. Parisis undertakes to prove and illustrates at great length, by arguments derived from the Ontological order, arguments furnished by Theology from the Supernatural order, and, finally, by a highly interesting series of arguments drawn from history. What precise force such arguments may have with the French mind, we can hardly conjecture; our neighbours, if not more subtle, are doubtless much more familiar with subjects of this class than we are in Britain; but for our own part, though on the whole, rather inclined to sympathise with the view advocated by the Bishop of Arras, we are fain to acknowledge that to our apprehension, some of his proofs are eminently fanciful, and we may add inconclusive. We confess at the same time to a latent suspicion that we may be held guilty of presumption in thus characterising any argument advanced by a man of such surpassing ability as Mgr. Parisis, but let the reader, more sagacious than we are, judge for himself of the bearing of the following argument on the question under discussion.

“In the fulness of time the Eternal Word becomes flesh, and the Immaculate Mother, chosen by God, might always truly say: *Virum non cognosco*; and Faith obliges us to believe that in becoming a mother, she remained a Virgin; *Beata Mater et Intacta Virgo*. The Church also teaches that her Divine Son, *Sine semine nasci dignatus est*. Well, notwithstanding, even in this mystery which so infinitely transcends all Nature, even in this generation so adorable, even in this all-divine maternity, God was anxious that the impotence (*l'impuissance*) of the creature, abandoned to itself alone, should be made manifest. No! Mary knew not man, but the Holy Ghost interposed from on high: *Spiritus Sanctus superveniet in te*. Yes, Mary conceived *sine semine*, but not of herself alone; *concepit de Spiritu Sancto*. Yes, Our Lord was born of a Virgin, *Natus ex Maria Virgine*, but it was by the power and operation of the Holy Ghost He became incarnate. We

can imagine nothing more conclusive (in favour of Philosophical Tradition) nor more sacred."—(page 15.) Nothing surely can be more sacred or more sublime, but we fail to detect the cogency or conclusiveness of the argument, or even its bearing on the question at issue.

Again, "Far surpassing the work of creation, there is in the Deity, an operation infinitely adorable, eternal, substantial, necessary, of necessity, the most intimate and absolute, namely, the generation of the Divine Word. Assuredly this attribute of the Eternal Father begetting His consubstantial Word, is far more incommunicable than the power of Creation, since the other two Persons of the most Holy Trinity neither have nor can have it." The idea here is obvious enough, but whether in point of metaphysical phraseology it be strictly accurate to say that the Father possesses an attribute not possessed by the other two Persons of the Blessed Trinity, it is not within our scope to inquire. Mgr. Parisi goes on, "The Son is begotten of the Father; the Holy Spirit is not begotten, but He proceeds from the Father and the Son. Behold the great primary mystery, the foundation and source of all others. Outside this eternal and impenetrable sanctuary, everything which has been made either in heaven or on earth, has been made by the Word, in this sense that without Him nothing has been made or has being,—that is to say, without His intervention, direct or indirect: *sine ipso factum est nihil quod factum est.*"—p. 24.

But who among the opponents of Traditionalism, has ever denied what is here stated by Mgr. Parisi? To vindicate the doctrine of the Evangelist, *Sine ipso factum est nihil quod factum est*, it is sufficient to uphold the truths regarding Creation, Immediate Conservation,*

* The nature of Conservation may be stated in the words of the Apostle, *Portans omnia verbo virtutis suæ* (Heb. i. 3.); or of St. Augustine, "Creatoris namque potentia.....causa est susistendi omni creaturæ quæ virtus ab eis quæ creata sunt regendis si aliquando cessaret simul et cessaret illorum species, omnisque natura consideret. Neque enim sicut structor ædium, quum fabricaverit abscedit, atque illo cessante atque aloscedente, stat opus ejus, ita mundus vel ictu oculi stare poterit, si ei Deus regimen sui subtraherit." (*Super. Gen. ad Litt.* l. iv. c. 12.)

Special Concursus,* taught now by all Catholic Metaphysicians, whether they range themselves on the side of "Tradition," or of "Reason." If it be maintained that the controversy regarding Tradition and Reason, which has been conducted with so much vehemence for a number of years in France and Italy, does really resolve itself into the old question regarding Immediate Conservation, and Special Concursus, it would be well if the Traditionalists said so at once and articulately.

The common Catholic doctrine regarding the nature of *conservation* and *concursus* has been stated by a great Catholic divine and metaphysician, in language as noble as ever came from the lips of man :

"I mean, moreover," says Dr. Newman, "that God created all things out of nothing, and preserves them every moment, and could destroy them as easily as He made them, and that in consequence He is separated from them by an abyss, and is incommunicable in all His attributes. And further, He has stamped upon all things in the hour of their creation their respective natures, and has given them their work and mission, and their length of days, greater or less, in their appointed place. I mean, too, that He is ever present with His works, one by one, and comforts everything He has made by His particular and most loving Providence, and manifests Himself to each according to its needs.....His are all beings, visible and invisible, the noblest and the vilest of them..... His too are the powers and achievements of the intellectual essences on which He has bestowed an *independent action* and the *gift of origination*.....The elements and types and seminal principles and constructive powers of the moral world, in ruins though it be, are to be referred to Him. He 'enlighteneth every man that cometh into this world.' His are the dictates of the moral sense, and the retributive reproaches of conscience. To Him must be ascribed the rich endowments of the intellect, the radiation of genius, the imagination of the poet, the sagacity of the politician, the wisdom

* The nature of concursus, is described by St. Thomas (*Summa contra Gent* Lib. iii. c. 57.) Sicut autem Deus non solum dedit esse rebus quum primo esse incoeperunt, sed quamdiu sunt esse in eis causat, res in esse conservans ita non solum quum res primo condite sunt eis virtutes operativas indidit, sed semper eas in rebus causat ; unde, cessante influentia divina, omnis operatu cessaret. Omnis igitur rei operatis in Ipsum reducitur sicut in causam." The doctrine regarding conservation and concursus here set forth by St. Augustine and St. Thomas is the ordinary Catholic doctrine taught in all Catholic Schools of Philosophy.

(as Scripture calls it,) which now rears and decorates the Temple, now manifests itself in proverb or in parable.....Anticipations or reminiscences of His glory haunt the mind of the self-sufficient sage and of the pagan devotee; His writing is upon the wall, whether of the Indian fane or of the porticoes of Greece. He introduces Himself, He all but concurs, according to His good pleasure, and in His selected season, in the issues of unbelief, superstition, and false worship, and changes the characters of acts by His overruling operation. He condescends, though He gives no sanction, to the altars and shrines of imposture, and He makes His own fiat the substitute for its sorceries. He speaks amid the incantations of Balaam, raises Samuel's spirit in the witch's cavern, prophesies of the Messiah by the tongue of the Sibyl, forces Python to recognize His ministers, and baptises by the hand of the misbeliever. He is with the Heathen dramatist in his denunciations of injustice and tyranny, and his auguries of divine vengeance upon crime. Even on the unseemly legends of a popular mythology He casts His shadow, and is dimly discerned in the ode or the epic, as in troubled water or in fantastic dreams. All that is good, all that is true, all that is beneficent, be it great or small, be it perfect or fragmentary, natural as well as supernatural, moral as well as material, comes from Him."*

This is a truly eloquent and magnificent statement of a common Catholic doctrine, and we fancy that Mgr. Parisi, though he discusses the subject in detail, and points out the absolute dependence of the creature, its absolute insufficiency, if abandoned to its own resources in the physical, intellectual, moral world, has not established more by his ontological argument than Dr. Newman here glowingly sets forth. The supreme dominion of God on the one side, and on the other, the complete dependence of the creature, its utter helplessness if left to itself, was surely an article of belief before the controversy regarding Tradition and Reason had ever been mooted. The real question at issue between the Traditionalist and his adversary is not whether the creature is essentially dependent upon the ordinary providence of God, but whether at least in reference to the First Man it was a psychological *necessity* that in order to develop his faculties God should have interposed in some *peculiar* way, and should Himself have conversed with and instructed Adam. We submit that Mgr. Parisi's argument establishes no such

* Dr. Newman on University Education, Discourse iii.
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necessity. Even if it were clearly proved that besides the ordinary *essential conservation and concursus* some other extrinsic aid or influence is required in the ontological order, and that without such aid everything in that order (except mind) is doomed to sterility and unproductiveness, the analogy would not suffice to prove the same sterility and impotence with regard to mind. For it might still be justly maintained that on intellectual essences alone has God bestowed "an independent action and the power of origination." And in truth there is nothing in the ontological order which (if perhaps we except the angels) can be placed in comparison with the soul, for it alone has been made after the image of God, it alone has been redeemed by the sufferings and death of a Man-God, and it alone has been destined to love and enjoy God for ever.

To enable the reader to appreciate the real value of Mgr. Parisi's analogical argument we shall set down some of his propositions in his own words. He begins by affirming that "the creature never becomes a creator"—*"La creature ne cree pas."*

Surely it cannot be denied: *Unus est altissimus creator omnipotens*—so much so that, according to Billuart, (Juxta St. Thom. *De opere Lex Dier.* diss. 1. art. 4.) it is a dogma of faith that God alone has created everything; *Dogma fidei est solum Deum de facto creasse universum.* But does it therefore follow that God has not bestowed upon intellectual essences the gift of independent action, and the power of origination?

Again, we have as a leading proposition that "the creature never vivifies, i.e., never bestows life."—*La creature ne vivifie pas.* § ii. p. 10.

Let it be granted—*Quoniam apud te, Deus, est fons vitæ*, (Ps. xxxv. 10.) and again, *Vita in voluntate ejus.* (Ps. xxix. 6.) Let us admit in their literal and most rigorous sense, the words of the mother of the Machabees—"I know not how you were formed in my womb: for I neither gave you breath, nor soul, nor life, neither did I frame the limbs of every one of you. But the creator of the world that formed the nativity of man," &c. (2 Mach. vii. 22.) But how can this be any proof or any link in the analogy by which it is attempted to establish that the mind of man is not endowed with the gift of independent action, and the power of origination?

Once more;—we are told that the creature is not only

incapable of bestowing life, but that it has need of other creatures even for the development and preservation of its own. *La creature a besoin des autres creatures pour developper la vie en elle-meme*, s. 3, p. 11.

Well, this proposition, too, is incontrovertible. The grain of mustard seed, for instance, is the least of all seeds, but the germ is so active and contains such a principle of fecundity, that when it is grown up, it is greater than all herbs, and becometh a tree, so that the birds of the air come and dwell in the branches thereof. But notwithstanding the activity and strength of the principle inherent in the mustard seed, it, too, instead of growing up to become a stately tree, would soon languish and die, if it did not derive succour and nutriment from without. The genial influence of shower and sunshine, and of propitious soil, are absolutely necessary for its growth. Nay, look to man himself, the lord and king of creation. How dependent and how precarious his life is—

“What’s life? at best a wandering breath—

When saddest, but a parting sigh—

When happiest but a summer wreath.”

“Man,” says Mgr. Parisi, “depends, as far as his natural life is concerned, upon a few atoms of air being granted or denied to him. Assuredly there is so far no ground for his taking pride to himself. But it was precisely for this reason that God wished to make him dependent upon things so inferior to himself,—*ut non gloriatur omnis caro in conspectu ejus*.” 1 Cor. i. 29, s. 5, p. 12.

This absolute dependance of all organic life, upon external influences, we unhesitatingly admit; but again, we are forced to repeat the question, how it thence follows that God has not bestowed upon intellectual essences the gift of independent action, and the power of origination?

No; the analogy furnished by observation of the mineral or vegetable, or animal kingdoms, terminates with them, and cannot be extended to the mind. It is useless to prove, as far as the present question goes, that these kingdoms are characterised by a general all-pervading uniformity, and that the law of dependent action may be traced everywhere, while the power of origination is not at all to be found. The soul has nothing in common with the rude forms of mere mechanical adjustments, nor even with the

highest forms of chemical affinity, and geometric adaptations. With regard to organic nature, the botanist will trace the richness of the rose, or the fairness of the lily, down to the very germ-cell, and tell us that if from thence grew the beautiful flower we behold, it was only the result of selection, adaptation, assimilation, or at least of reproduction, but never of independent action. It may be so, but the structure of the mind is incomparably grander than that of the rose or of the lily, and of an entirely different order. The physiologist, too, may point out as far as is known to science, the rudimentary source of animal existence, the hidden depths of animated being, the seminal principle whence spring the various forms of life, from the meanest insect up to man himself with his noble organization; and he may assure us that the development from that germ, is also in its kind, a work of assimilation, nutrition, and so forth, but never of independent action. It may be; but the existence of the mind is as far raised above mere animal existence as Spirit is superior to matter, as reason is superior to brute instinct.

The argument derived from the theological or supernatural order seems to us no less exceptionable than the preceding. We really are unable to discern any—even the remotest affinity between the doctrine combatted by Mgr. Parisis and the Pelagian or Semipelagian heresy. And unless there be some kindred between them—of what use can it be to quote in favour of Traditionalism texts of Sacred Scripture or decrees of Councils to the effect that without the aid of Divine grace man is incapable of attaining to Faith or the beginning of Faith—or of performing any work whatever conducive to eternal life? And yet the Bishop of Arras is at pains to cite all the texts and decrees ordinarily found in theological treatises bearing upon this subject. “*Sine me nihil potestis facere*” (Joan. xv. 5.); “*Nemo potest venire ad me nisi Pater meus, traxerit eum,*” (Joan. vi. 44.) “*Gratia Dei sum id quod sum.....Non ego sed gratia Dei mecum,*” (1 Cor. xv.) “*Deus est enim qui operatur in nobis et velle et perficere*” (Philip. ii. 13.) “*Non quod sufficientes simus cogitare aliquid a nobis, quasi ex nobis, sed sufficientia nostra ex Deo est.*” (2 Cor. iii. 5.) “*Nulla facit homo bona quæ non Deus præstat ut faciat homo.*” (Conc. Araus. ii. cap. xx.) &c. &c. Sacred authority, indeed, is here clear and decisive: it assures us that if abandoned

to his natural resources man could never attain eternal life—the beatific vision. And, in reference to this doctrine, the voice of reason itself coincides with the teaching of authority. For, as the philosophers say, “*actio non protendit, extra spheram suæ activitatis* ;” something then, beyond the natural powers of man must be necessary to compass a supernatural end—an end which, we know from its very definition, is disproportioned to man’s ability—as it is above his requirements. But believing all this most firmly and most reverently, believing that if abandoned to his mere natural resources man could never have Divine Faith, nor the beginning of Faith, nor perform any work of itself conducive to salvation, we may still be permitted to inquire how it can thence follow that where there is question of the natural exercise of its faculties, the mind has not received from its Almighty Creator, the gift of independent action and the power of origination? How can it thence follow that for its ordinary natural functions, the intellect requires, over and above the essential *conservation* and *concursus* necessary for action in all contingent things—a special help, analogous to the prevenient and concomitant grace required for supernatural works?

We can merely glance at the historical argument dwelt upon at great length, and with surpassing power by the Bishop of Arras.

History is a kind of double mirror which reflects at once the free agency of man, and at the same time the controlling, overruling, all-pervading, Providence of God. History then, or experience, is, perhaps, the safest guide in directing even the metaphysician to a knowledge of the laws and conditions under which the intellect uniformly acts. It is easy to speculate and theorise *a priori* ; but, in such speculations, the affirmation of to-day may be encountered with denial to-morrow. It is exceedingly difficult to say how God *might*, or *might not* have created the human mind—or what gifts He might or might not have absolutely bestowed upon it. The man who morbidly follows up such inquiries, makes nature pass through a crucible—and emerge in whatever form may best approve itself to his own subtle apprehension. Even here, then, a fact is worth a thousand theories, and the light of history the serenest and truest guide. And what does history say of the relative claims of Tradition and Reason? What is the place,

the rôle which she respectively assigns them? Everywhere history represents reason as dependent, subordinate—infirm, fallacious—always kept in the back-ground, while Tradition is everywhere paramount and supreme. A brief survey of the formation and progress of Society suffices to attest this.

We shall not dwell upon the history of Adam, though the inspired narrative is so clear upon it. We cannot, however, overlook another of those remarks made by Mgr. Parisis in reference to it, which, with all respect, we must consider fanciful.

“Adam,” he says, “had been alone when God accorded to him the right of eating of the fruit of all the trees in Paradise, except one, and prohibited him to eat of the fruit of that one. However, when Eve is tempted by the devil, what is her reply to him? *De fructu lignorum qui sunt in paradiso vescimur; de fructu vero ligni quod est in medio paradisi præcepit nobis Deus ne comederemus, ne forte moriamur.* How then could she have so well known the command of God which she had not herself directly heard from Him, if it had not been transmitted to her by Adam? and why should it have pleased God thus to address His command immediately to the first man, and not to the first woman, unless with the view of consecrating from the very beginning, the law of Tradition?”—p. 51.

The history of the Jewish nation affords a remarkable illustration of the preeminence of Tradition, and of the secondary and insignificant part which Reason was allowed to assume in the administration of the affairs of the chosen people. We do not now speak of the religious life of the Jews. This, it is manifest, depended altogether upon Tradition, upon the promise of a Redeemer to come. The words addressed to the serpent, *et ipsa conteret caput tuum*, words so gloriously verified in the person of the Blessed Virgin, contained a promise more explicitly repeated to Abraham; and on this promise, as on its centre, turned the whole religious existence of the people of God. It was the great hope of the Patriarchs, the constant vision of the Prophets, and the burden of their loftiest inspiration—it alone gave light to the Sanctuary and majesty to the Temple—it imparted virtue to the sacrifices—a meaning to the ceremonies—a reality even to the shadows—the naked and empty elements which prefigured a better Testament. But if we examine the social constitution of the Jews, we shall find that Tradition is everywhere equally predominant, equally supreme. Thus the Judiciary and penal

laws; (Exod. *cap. xxi., et seq. Lev. xv. et alibi*) the laws of hygien, for instance, laws concerning leprosy, in men and garments (*Lev. xiii. et alibi*) the laws regarding property and debts (*Lev. xx. 5. de Ann. Sabb; Num. xv.*) though plainly of a temporal or civil character, are all dictated by God Himself. With the formation of these laws, Reason had nothing to do; it was not empowered to alter or modify them, but simply to accept, to understand and to obey them. In fact, there was not a single point connected with the social government and administration of the Jews, that God Himself did not regulate and adjust. If war is to be waged against the enemies of the chosen people, God specifies the conditions, and prescribes the mode of battle (*Deut. xx*). He orders the formation of the Cities of Refuge, that they may afford an asylum to him who is forced to flee for manslaughter (*Deut. xix.*); even the use of the silver trumpets, and the import of their sounds He does not leave undefined. "If thou sound but once the princes and the heads of the multitude of Israel shall come to thee. But if the sound of the trumpets be longer, and with interruptions, they that are on the east side shall first go forward" (*Numb. x. 4, 5.*). Thus we see that even in the minutest and most insignificant details, human intelligence takes not the initiative, but abandons itself completely to the direction and control of God.

Such in substance is the argument from the history of the Jewish people, advanced by Mgr. Parisi, in favour of Traditionalism. He has adorned it, however, with a copiousness of illustration from the Sacred narrative, as well as with a singular felicity of expression, which greatly enhance its intrinsic force. But as to the cogency of the argument in deciding the question under discussion, we are again, but always with unfeigned deference, compelled to dissent from the illustrious author. Whatever may have been the secret designs and counsels of God in making the civil constitution of His chosen people a theocracy, or divine form of government, it cannot be disputed that the history of that people was *exceptional*, and their government dissimilar to any other temporal government. God may have wished that their constitution should serve as a model or pattern for other less favoured nations, particularly with regard to soundness of religious belief, purity of moral laws, justice of legislation; but there is not a

shadow of evidence to show that human sagacity itself, without having this more exalted model before it, might not have invented a just and wholesome form of civil government, a form which should induce future ages to look back for ever with gratitude, and reverence the memory of the legislator.

But the value of Tradition, and the imbecility of Reason may be illustrated without our going back to the ancient history of the chosen people. The history of France and of England, two great, two neighbouring, two rival states, furnishes a no less significant lesson on this head than do the annals of the people of God. France in religious matters has always firmly clung to tradition; since the Revolution she may be said to have lost sight of tradition in politics and social government. England on the contrary has always adhered with a dogged tenacity to her social traditions, while in religion, since the establishment of Protestantism, she has affected to ignore and despise tradition. What is the consequence? France is still the eldest daughter of the Church, the true faith still holds undiminished sway over that sunny land, and no country in the world has evinced more zeal in bringing the light of the gospel to foreign nations, to those who sit in darkness and in the shadow of death. But in a religious point of view, what is England? Who could recognise in it the land where Augustine preached, or Bede wrote, or Edward ruled? The state of Westminster Abbey is typical of the religious state of the country. The cloisters silent, the monks departed, the voice of prayer unheard, a dreary desolation pervading the whole, nothing left but a wretched, heartless mockery of state worship. In like manner outside the temple, faith is dead, on all around we see the elements of dissolution. If a sign of life be discernible it is only in the violence of internal conflict and dissension, to-day in the heat of the Baptism-controversy, to-morrow in law-appeals regarding the confessional. "These are spots in their banquets, clouds without water, which are carried about by winds. Trees of the autumn, unfruitful, twice dead, plucked up by the roots, raging waves of the sea, foaming out their own confusion, wandering stars."* The greater part of England is overspread

* St. Jude.

by a moral miasma : the gross ignorance of millions, even with regard to the primary mysteries of religion, the murders, infanticides, divorces, universal mammon-worship, remind one of the depths of iniquity into which the worst pagan nations had ever been plunged.

But, on the other side, if we consider the political history of France and England, the picture is at once reversed. England is justly proud of her institutions as far as their operation is restricted to England proper. The very name of the constitution acts like a talisman upon the true English mind,—and there is no Briton who would not gladly defend that constitution with his life. And yet if we look for an explanation of the perfection which undoubtedly characterizes the English constitution, we shall find it in the people's instinctive abhorrence of sudden, violent changes, in their wholesome spirit of liberal conservatism, in their loyal adherence to the traditions of the past. The broad foundations, the mighty bulwarks of English liberty, all date from Catholic times, and the progressive improvements made in the course of events, were grafted on a stem naturally fitted to admit and nourish them. Hence the ark of the constitution has ever been held inviolable in England ; and the spirit which animated the barons when, on a memorable occasion, they exclaimed that they would not brook innovation, not only lives in the breasts of their descendants, but pervades the entire nation. Reverence for the past, then, has been the main cause of the freedom, and happiness, and glory of England. It has, unfortunately, been otherwise with France. At the time of the Revolution, the old landmarks were effaced, and the great venerable spirit of antiquity came to be treated, not with reverence, but with mockery and scorn. The consequence has been, that a generous, gallant, and enlightened people has gone through a series of national calamities almost without parallel. The evils thus entailed upon France by a forgetfulness of traditionary wisdom were foreseen from the beginning by Burke, with an accuracy almost prophetic, and described by him in that immortal work which is a lucid digest of all political philosophy. By him they are all ascribed to the fact that the originators of the Revolution, were resolved to create the constitution *de novo*, and regard France as if she had no past history : otherwise such wild theories, such insane projects, could not have found favour among them, for

“always acting in the presence of canonized forefathers, the spirit of freedom leading in itself to misrule and excess, is tempered with an awful gravity.”

We have now indicated, at least, the bearing of Mgr. Parisis's argument in favour of Tradition. The consequences which he deduces from the doctrine, as well as the arguments on the other side, put forward by the Antitraditionalists, we are compelled to reserve for a future number. Meantime we may remark that with such warmth was the discussion regarding the relative claims of Tradition and Reason, conducted in France and in Italy, that the Congregation of the Index has judged it expedient to issue the following among other decisions on this subject. They were approved by his Holiness Pius IX., on the 15th of June, 1855, and ordered by him to be published :—

“1. *Etsi fides sit supra rationem, nulla tamen vera dissensio, nullum dissidium inter ipsas inveniri unquam potest, cum ambo ab uno eodemque immutabili veritatis fonte, Deo optimo maximo, oriantur, atque ita sibi mutuam opem ferant.*

“2. *Ratiocinatio Dei existentiam, animæ spiritualitatem, hominis libertatem, cum certitudine probare potest. Fides posterior est revelationi, proindeque ad probandam Dei existentiam contra Atheum, ad probandam animæ rationalis spiritualitatem et libertatem contra naturalismi et fatalismi Sectatorem, allegari convenienter nequit.*

“3. *Rationis usus fidem præcedit, et ad eam ope revelationis et gratiæ conducit.*

“4. *Methodus quâ usi sunt D. Thomas, D. Bonaventura, et alii post ipsos scholastici, non ad rationalismum ducit, neque causa fuit cur, apud scholas hodiernas, philosophia in naturalismum et pantheismum impingeret; proinde non licet in crimen doctoribus et magistris illis vertere, quod methodum hanc, præsertim approbante, vel tacente ecclesia, usurpaverint.*”

With these decisions before him we shall, for the present, leave the reader to form his own conclusion on the question at issue.

- ART. IX.—1. *Gosselin's Temporal Power of the Popes.* London: Dolman, 1853.
2. *Whiteside's Italy.* London: Bentley, 1848.
3. *The Quarterly Review* for July, 1856.
4. *The Edinburgh Review* for April, 1859.
5. *Letter of Signor Farini to Lord J. Russell, upon Italy.* Turin: 1859.
6. *Ranke's History of the Popes.* London: Bohn, 1853.
7. *Rome, its Ruler and its Institutions.* By F. Maguire, M.P. Second Edition. Longmans, 1859.
8. *The Temporal Government of the Holy See.* By Dr. Miley. Dublin, 1858.
9. *The Roman States, from 1815 to 1850.* By L. C. Farini. Translated under the direction of the Right Hon. W. E. Gladstone. London: J. Murray, 1854.
10. *Italy; its condition.* Letters to Lord J. Russell. By an English Liberal. London: Ridgway, 1859.
11. *Commentaries on Public Law.* By George Bowyer, D.C.L. London: Stevens and Norton, 1857.
12. *The Statistics of the Italian Cities.* By George Bowyer. London: Stevens and Norton.
13. *Blackstone's Commentaries.* By Ker. London: Murray, 1858.
14. *Westlake's Conflict of Laws.* London: Maxwell, 1859.
15. *A Letter to the Earl of Shaftesbury on the Present State of the Laws which regulate Private Lunatic Asylums; with a comparison of the state of the Law in France and in England as regards the process de lunatico inquirendo.* By Edward J. Seymour, M.D., F.R.S., late Senior Physician to St. George's Hospital. London: Longman and Co.
16. *The Rise and Progress of the British Constitution.* By Professor Creasy. London: Bentley, 1855.
17. *How we are Governed.* By A. Fonblanque. London, 1859.
18. *Bright's Speeches on Parliamentary Reform.* London: Judd and Glass, 1859.
19. *Aison's History of Europe.* London: Blackwood.
20. *Coup d'œil sur l'Angleterre.* Paris, 1855.

FEW perhaps are aware how modern is that hostility to the temporal dominion of the Holy See, as to which we now hear so much. It is a most remarkable fact, which has not escaped the penetration of Rauke, that even in

the fifteenth century, that age of declining reverence for the spiritual authority of the Holy See, men by no means disapproved its temporal dominion; on the contrary, authorities the most hostile to it acknowledged its necessity, and even appeared confirmed in their convictions by experience. Thus, as Ranke tells us, in his *History of the Popes* (chap. xi.) "The temporal sovereignty was in accordance with the temper and direction of the age." "I had once thought," remarks one of the speakers at the Council of Basle, "that the secular power should be wholly separate from that of the Church; but I have now learned that virtue without force is but slightly respected, and that the Pope, without the patrimony of the Church, would be merely the servant of kings and princes."

History shows that the Popes had temporal dominion thrust upon them a thousand years ago, on account of the confidence which the Roman people felt in their wisdom and capacity for civil rule. And the experience of ten centuries has abundantly attested it. Ranke describes the condition of Rome and the Roman States when the Popes returned to it after that long exile, which the Italians themselves called the Babylonish captivity. This exile may be said to have lasted almost a century and a half, from the ill-omened opening of the thirteenth century to the middle of the fifteenth. Here history affords us an opportunity of testing the value of the Pontifical dominion in Italy.

"In 1443," says Ranke, "when Eugenius IV. returned to Rome, the city was become a mere dwelling of herdsmen; her inhabitants were in no way distinguished from the peasants and shepherds of the surrounding country. The hills had been long abandoned, and the dwellings were gathered together in the levels along the windings of the Tiber; no pavements were found in the narrow streets, and these were darkened by projecting balconies, and by the buttresses that served to prop up one house against another. Cattle wandered about as in a village. The memory of antiquity was fast sinking; the Capitol had become 'the hell of goats;' the Forum Romanum was the 'cow field.' The church of St. Peter was on the point of falling to pieces." (B. iv. c. 1.)

This was the state in which the Popes found Rome at the era of their return to it in the middle of the fifteenth century. How did they use their restored power? Let Ranke tell us.

"When Nicholas at length regained the allegiance of Christen-

dom, and had become enriched by the offerings of those pilgrims who had flocked to Rome, he determined to adorn the city with buildings, that should compel all to acknowledge her as the capital of the world. To effect this, however, was no work for the life of one man; *the Popes succeeding him also laboured at it for centuries.*" (Ib. sec. 8.)

And the Lutheran historian shows how successfully. And against what terrible difficulty.

The fierceness of the rival factions in Italy may be seen pictured in the poetry of Dante or the history of Ranke.

"These divisions," said the latter, "reigned even in the smallest villages; a man would not have spared the life of his brother had he belonged to the opposite faction, and some were known who had destroyed their wives that they might be at liberty to marry into families of their own party. The factions took the administration of justice into their own hands; certain persons who had been condemned by the tribunals they declared innocent, and liberated by breaking open their prisons. Their enemies, on the contrary, they sought in the same place and by the same means, but it was to place their heads around the fountains, where on the day following they were to be seen."

What a task to achieve peace among such a people! Yet such a task the Pontiffs *did* achieve. And towards the close of the sixteenth century it was, says Ranke, "a matter of pride and rejoicing to the Pope, when ambassadors arriving at his court assured him that in every part of his states through which their road had led, they had travelled through a land blessed with peace and security."

And then as to the condition of the people. "The States of the Church," says the historian, "were unquestionably less burthened with imposts than any other, and Rome, as compared with other cities, was equally fortunate as to the amount of taxation." A secretary of Clement VII., alluding to the factious spirit referred to, expresses, says Ranke, his surprise that the Roman people were not more devoted to the Holy See, considering the lightness of their burdens. "From Terracina to Placentia," he exclaims, "the Church is in possession of a broad and fair portion of Italy; her dominion extends far and wide; yet all those flourishing lands and rich cities, which under any other sovereign would be burthened for the support of large armies, pay no more to the Popes than just so much as will meet the expenses of their own administration." And Ranke adopts this testimony.

He and Roscoe describe the peace and prosperity which Italy had attained at the era of Leo X.; and if Lorenzo de Medici contributed to it, as no doubt he did, it was merely by keeping in check those rapacious states which were always seeking to ravage and spoil the dominions of the Church. And if his death was a signal for a new era of misery for Italy, it was because princes set at nought the Papal authority, because Charles of Germany repeated the invasions of Charles of France, and within seventy years of the Pope's return to Rome it was sacked by the troops of a Catholic emperor. Was ever a more terrific shock to a state? Was ever a sovereign more cruelly beset than the Pope? Had one ever to rule under greater difficulties? Yet the Popes, after the storm had passed, restored Rome, and gave peace to Italy. What the Roman States were under their rule let their enemies describe. "The writers of the sixteenth century," says Ranke, "can find no words that suffice them to extol the fertility of the Papal territory. How fair are the plains around Bologna and through Romagna. How brightly did a rich productiveness combined with beauty adorn the slopes of the Apennines." "We travelled," say the Venetian ambassadors, in 1522, "from Macerata to Tolentino, through a district of surpassing loveliness. Hills and valleys were clothed with grain through an extent of thirty miles; nothing less rich could be seen. Uncultivated land we could not find for the breadth of a foot. We thought it impossible to gather so vast a quantity of corn; how, then, shall it be consumed?"

Venice was supplied from Romagna, while Genoa, and sometimes Naples, were from the territory of Viterbo and the Patrimony. In one of his bulls for 1565, Pius V. exalts the divine favour, "by whose permission Rome, formerly unable to subsist without foreign corn, had now not only abundance for herself, but could also come in aid of her neighbours, and even of foreigners by land and sea, with the produce of her own Campagna." In 1589 the exports of corn from the states of the Church were estimated at the annual value of 500,000 scudi. Ancona possessed a flourishing trade. "It is a beautiful place," say the same ambassadors of 1522, "full of merchants." And in 1542 there were 200 Greeks settled there as merchants, who had a church of their own. It was not only on the commercial readiness and activity of the Papal subjects, but on

their bravery, that writers of that period loved to dwell: "The whole population," said one of the Venetian ambassadors, "is apt for the uses of war." In 1570, an Italian writer says, "As to soldiers, it is generally believed that those of the Papal States are the best in Italy." So another, cited in Ranke, 1586, "The states have abundance of warlike men; they seem all born for war, and are quickly brought together by the beat of the drum." Here we see the old martial spirit of Rome, so marking out the Romans as the natural lords of Italy. But unfortunately this very spirit made them impatient of the mild rule of the Pontiff. And this is very truly and fairly pointed out by Ranke. "In all countries, but more especially in one of so pacific a character as that of the Papal States, obedience to the government is based on voluntary subordination." And then he describes how, after the Popes had restored tranquillity, the land seemed to remember how warlike and how unfettered in its parties it had been. "It began to feel contempt for the government of priests, and returned to the condition most natural to it," i.e., one of constant strife and fierce faction; which ultimately proved the ruin of Italy.

"These rich and populous territories," continues Ranke, "with their brave inhabitants, were now subjected to the peaceful and spiritual government of the Popes. Let us examine the basis and organization of this ecclesiastical state as it developed its resources under their rule." And then he proceeds to point out how much of freedom the Papal government secured the cities, and draws a parallel between the Roman and the Venetian rule, in favour of the former. "The towns," he says, "retained not merely the forms of municipal independence, but many of the essential attributes." This was in the fifteenth century. How was it then in our own country? "The towns of Romagna were seized," he says, "by Julius II. during the Venetian war," (the truth being that they were retaken by the Pontiff, having been rapaciously seized by the Venetians,) "but he did not annex a single one to the Pontificate without first consenting to restrictive conditions, or conferring new and fixed rights, and these stipulations were always referred to in later times. The political relation with the Church into which they had entered by these treaties, received the title of Ecclesiastical Freedom."

"Thus constituted, the state, as a whole, bore a certain resemblance to that of Venice. In each the political power had at one time resided in the commune, and this had for the most part subjected smaller communities. In the Venetian States these paramount municipalities had submitted to the control of the *nobile* of service. In the states of the Church, to the commonwealth of the Curia."

Observe what he adds as to lay government.

"The dignity of the prelacy was not absolutely indispensable as a qualification even for the supreme powers of the municipalities; secular vice-legates were frequent. In Romagna it seemed to be almost an established rule that a lay president should direct the administration."

It is in the pages of the Protestant Ranke we read how, at the close of the sixteenth century, the Pope was told by ambassadors arriving at his court, that in every part of his states through which their road led they had travelled through a land blessed with peace and plenty, how in the States of the Church the people were less burdened with imposts than any other, and how the Venetian ambassadors could not sufficiently describe the fertility and prosperity of the Roman States. The same, and other Protestant historians, for instance, Napier, in his admirable *History of Florence*, describe the furious factions of the Italians, and that fierce spirit which they engendered, and their natural tendency to arms. And Ranke very fairly traces to this cause the discontent of the Romans with priestly rule, and as fairly traces to the ambassadors of Venice a hostile state, the first ideas of the "misgovernment" of the Roman States, just as other historians clearly trace to the enmity of Florence certain gross slanders on the characters of certain Pontiffs of that age. But how remarkable what immediately follows:

"At this period the towns would seem to have had no liking for secular governors, they preferred and requested to be ruled by prelates, holding it more honourable to obey an ecclesiastic of high rank."

Whence we may gather that at this, the palmiest era of Italian prosperity and independence, there was not only no prejudice against ecclesiastical rule, but actually a preference for it; we know that it was so generally in Europe during the Middle Ages, as the mediæval maxim shows, "it is better to live under the crozier than under the lance." And there were special reasons for it in Italy,

the Popes being the true champions of Italian independence, liberty, and nationality. Ranke remarks of Julius II. that it was his ambition to present himself as the liberator from tyranny, and records, as we have seen, the most practical proofs of it. And Roscoe, speaking of the same great Pontiff, says:

“His ambition was not the passion of a grovelling mind, nor were the advantages which he sought to attain of a personal or temporary nature. To establish the authority of the Holy See throughout Europe, to recover the dominions of the Church, to expel all foreign powers from Italy, and to restore the country to the dominion of its native princes, were the grand objects of his comprehensive mind.”

In suppressing the Vicars of the Church, adds Roscoe, and uniting their territories to the Holy See, he completed what Alexander VI. began, but without incurring an equal degree of odium; for the obvious reason, that his predecessor had borne the *brunt* of the work, and he reaped the fruit. Roscoe represents this suppression of the Vicars, who really arrogated sovereignty, and perpetrated the grossest oppressions, as a restoration of the dominion of the Holy See; as it truly and plainly was. And then Ranke tells us how delighted the Italian cities were to be under Papal rule. They had ample opportunities of judging, for in those turbulent times they were sometimes under some other rule, as for example, the Venetian. Hence the comparison Ranke institutes between the Papal rule and the Venetian, to the advantage of the former. Thus, he says, that the Roman authorities enjoyed a more extensive freedom of action, and proceeds to show that the Papal Government had a larger degree of authority.

“Of this fact we find convincing proof by a comparison of the concessions made to the municipalities of Rome and Venice. A favourable opportunity presents itself in the case of Faenza. This city, which had capitulated to Venice some years before its surrender to the Ecclesiastical States, had made conditions with each government. It had, for example, demanded from both that no new imposts should be laid on them, but with consent of the majority in the Great Council. To this the Pontiff added the clause, unless it shall appear to him advisable to do otherwise for good and sufficient cause.”

“The Venetians had assented to the demand that all criminal judgments should be referred to the podesta and his court (Curia).

The Pope confirmed the privilege in its general import, but made the important exception, 'In cases of high treason or of similar crimes calculated to cause popular irritation, the authority of the governor shall step in.'

This is exactly analogous to our suspensions of the Habeas Corpus Act, in times of popular commotion. And it is to be observed that it cannot matter in principle whether such a power is granted on each occasion, or is made originally part and parcel of the constitution. It is remarkable that Ranke sees nothing in these reservations of sovereign authority except proofs of superior efficiency in the Papal Government.

"It is obvious that the Papal Government assumed from the outset a much more effective exercise of the sovereign authority than that of Venice." It is notorious that practically the Papal Government never established such a social tyranny as the Venetian oligarchy. And Roscoe somewhere draws a similar parallel between the rule of Ferrara under the House of Este, and that under the Popes.

Ranke gives another example :

"When the city of Fano placed itself under the immediate sovereignty of the Papal See, in 1463, it made certain conditions ; first, that in all future time the city should *hold immediately* of the Papal throne."

And again :

"Immediately after the accession of Leo X. the Florentines, who had obtained a large share in the administration, exercised the rights of the Curia with the most oppressive violence. Deputations from the cities were sent, to arrive in Rome, one after another, entreating relief from their burdens. During vacancies of the Pontificate it frequently happened that the ancient feudal lords would return to power, and were not expelled by the new pope without considerable difficulty. The cities on the other hand dreaded the being alienated from the Papal See."

It is impossible to maintain, in the face of these facts, and these impartial authorities, that there is anything necessarily vicious in a system of Papal rule ; seeing that the best days of Italy were owing to it, and that the Italian cities preferred it to the rule of temporal lords, or the government of the most celebrated states.

See again, towards the close of the sixteenth century, how Ranke speaks of the Papal rule.

"The administration of Sixtus V. was most remarkable. His ordinances permitted no respect of persons. No disturbances were existing. He punished the rebellious feudatories, but as earnestly set himself to conciliate the great body of the nobles. He instituted in Marcerata a supreme court of justice for the whole province. The college of advocates he distinguished by new privileges. The communes of the March of Ancona were encouraged to build houses. His solicitude was extended in different degrees to the several cities of all the provinces. He made arrangements for preventing the increase of their debts; he caused a strict enquiry to be made into the management of their finances, and made regulations, of various character, but all conducing to restore the lost importance and well-being of the commoners. Agriculture was equally indebted to his reign; he undertook to drain the Pontine marshes, and the river Sixtus, which, until the time of Pius VI. was the last attempt made, was cut by his command. Neither was he negligent with regard to manufactures."

Nor was this said of one or two Pontiffs only. On the contrary, it is on the whole the character which Ranke gives of all the Popes since the sad schism of the "Reformation." Making a little allowance for prejudice, here and there, his portraiture of them, on the whole, is creditable to himself, and favourable to them. Thus he immediately adds:

"We must not attribute dispositions of this kind to Sixtus alone; this would be unjust to his predecessors. Agriculture and manufactures were favoured by Pius V. and Gregory XIII. also. It was not so much by the adoption of new paths that Sixtus distinguished himself from earlier Pontiffs, as by the energy and activity with which he pursued those on which he had already entered."

And then, in a note, he adds to his statement as to the communal government:

"These arrangements were the commencement of a better state of things among the communes of the Ecclesiastical States, which recovered the more readily because Clement VIII. continued these judicious measures."

The historian has a chapter on the architectural labours of the Popes, under which Rome was in progress of restoration during the whole of the sixteenth and seventeenth centuries. Then he goes on to speak in the highest terms of "the Curia." It was formed, he says, of the most distinguished men, "who possessed the art of governing with address," and were versed in "state affairs."

Does this look as if ecclesiastical rule were necessarily bad?

"The Curia was not an ecclesiastical institution only, it was a political government also, and had indirectly to rule a large part of the world in addition to its own state."

Omitting observations obviously inspired by the natural prejudices of Lutheranism, Ranke speaks with candour on this subject. And he shows sensibly enough that municipal institutions, rather than political, suited the spirit of the Italians.

"It is a striking fact that the establishment of provincial governments was in no one instance adopted in Italy; certain provincial assemblies were indeed held in the Papal States, and even received the imposing name of parliament; but there must have been something adverse to institutions of this character in the manners or modes of thought of Italians, since no one of them ever attained to effectual or enduring influence."

And, as we have seen, he compares the 'Curia' to the Venetian Senate, but to the advantage of the Curia. And he tells us "that persons came to Rome believing that they found more liberty there than elsewhere." He goes on to say, "In this court there was no position so eminent but the most obscure individual might aspire to fill it. Each man believed himself capable of all, and fitted for everything."

Hence, as he truly observes, it "was a remark often made in those days, and a perfectly just one, that there was a sort of republicanism in the character of the Prelacy and Curia; which consisted in the circumstance that all might aspire to all, examples being continually presented of men whose origin was most obscure, attaining to positions of the first eminence." It is obvious indeed that the Papal Government possesses, in a greater degree than any other, the advantages of the hereditary and elective systems of government, or rather it is the only one in Europe which unites both, the stability of the hereditary with the freedom of the elective. It is impossible that there can be any long vacancy, or uncertainty as to the successor; he is nominated immediately by a permanent body; on the other hand he is nominated by choice; by the choice of a body of men the most sensible in the world, a choice made with the most perfect knowledge, and certain to fall on one already of long established reputation, and of matured

wisdom, and the fittest for the particular crisis of the times.

This being so, how was it, and when was it, that the cry arose or the prejudice was created against Papal rule? The Lutheran historian furnishes us with the answer. He shows that the prejudice was the result of the cry. And that the cry was raised by the enemies of the Holy See, and for the purposes of insidious encroachments and oppression upon its territory. It was raised by those who were envious of its prosperity. He tells us that it is in the letters of the Venetian Ambassadors in the middle of the seventeenth century, that we first find the expressions which have since become so current about the inefficiency of the Papal Government. The Venetian Ambassadors; the very men who, not long before, were writing to their masters of the wondrous wealth and prosperity of the Papal States! Aye, there was the real origin of the "cry." Not the bad government, but the good government of the Papal States gave rise to it. Not pity, but envy. Not misery but prosperity. Venice and Florence, then rival states, and other countries were equally jealous of Rome, and lavished abuse upon the Roman Pontiffs. Their ambassadors first calumniated Papal rule.

"The Italian States had long felt jealous of the repeated extensions given to the ecclesiastical dominions;" which extensions, he it observed, as already shown from Ranke himself, were simply restorations. It was, he says, "in the time of Urban VIII. (1630) that the Ecclesiastical States first attained to the completion of their territorial possessions." "At the time Ferrara was taken into the Papal possession, it seemed certain that Urbino must lapse to the Roman See, as there were no natural heirs." It will be observed that Ranke evidently implies that it must lawfully and rightfully lapse, as undoubtedly it did. He then goes on to tell how offended the Venetians were at this, and how they resolved to resist. And then, he says, "very soon there might be heard throughout the duchy those complaints which the government of priests invariably called forth." Invariably called forth! Why here the historian forgot what he had himself written in a former volume, that the Italian cities preferred Papal rule. But the truth is, he took the Venetian account of the matter, and used the phraseology of Venetian writers. Indeed, he quotes in a note, the words of Contarini, the

Venetian Envoy. "The subjects complain bitterly of the change, they call the government of the priests a tyranny." Did they? Did they think the government of the Venetian oligarchy no tyranny? We doubt it; we wholly disbelieve it; we believe on the contrary that their pretended complaints were simply the result of Venetian intrigues. Just like Sardinian intrigues in our own times—as we shall shortly see.

The Venetians, with allies, made war upon the Pope,—and then was repeated, says Ranke, "that contest between the French and Spanish (or Roman) interests, which kept Europe in commotion." The Pontiff was forced to yield; his revenues were exhausted by the war. The European sovereigns abandoned him to his unprincipled assailants. This was the commencement of the modern cry against Papal rule. Ranke thus describes it.

"Thus, the Papal See had been forced to retreat from the position it had occupied at the central point of European affairs, and suffered a defeat in those of Italy, and even the confines of its own States, exceeding any that had been inflicted on it for a long period."

This was just at the middle of the seventeenth century. We appeal to the testimony of the Lutheran historian, whether the Papacy was responsible for the decline of its authority. On the contrary, he speaks in the highest terms of the successors of Urban VIII. But he shows the decline resulted from the oppression of foreign powers on the Papacy. Thus he had already remarked of Urban VIII. "The House of Austria powerfully restrained the Pope," and it was with the encouragement of Austria the proud Venetian oligarchy ventured to assault him. The historian describes how the effect of this foreign influence was felt under Alexander VII., and Clement IX., in the interference of foreign prelates with Papal rule. He quotes the Secretary of Alexander, "I perceived that he had only the name of Pope, not the command of the Papacy." And so under Clement IX., he shows how the Papal Sovereign was restrained by a powerful aristocracy.

Having reached this era, he makes a review of the progress of Rome, whence he arrives at the conclusion that it owed all its wealth and prosperity to the Papal rule. He shows that the population had steadily increased,—and he goes on to say—

"After the return of the Popes from Avignon, and on the close of the schism, the city, which had seemed on the point of sinking into a mere village, extended itself round the Curia. But it was not until the Papal families had risen to power and riches, until either internal discords, or external enemies were no longer to be feared, that a numerous permanent population arose in the city. Its prosperity and possessions were always dependent on the importance of the Church and court. It was under the influence of that power and efficiency to which the Roman See had attained, that the Capital revived its essential character and magnificence. Thus, also, were those Roman families founded which are flourishing to this day. From the time when the extension of the spiritual dominions ceased, the population no longer continued to extend. It was a creation and product of that period. The modern city belongs to that period of Catholic restoration."

To the last (save an expression or two borrowed from the invidious emissaries of Venice) it is most remarkable that the Lutheran historian has no case to make against the character of Papal Government. On the contrary, the whole current of his history is in its favour. And another thing very remarkable to be gathered from his history, is, that there is no necessary antagonism between Papal government and lay rule. On the contrary, as we have seen, while on the one hand, the palmiest period of Italian prosperity, was the palmiest time of Papal rule, at that same period the Papal Government made free use of lay administration.

It is obvious then, from the impartial testimony of Ranke, that we must find in other causes than the character of Papal rule, either the source of any decline of authority or prosperity, or of any jealousy of lay administration. And from that same testimony, we have no difficulty in detecting the two causes, viz., *foreign oppression and intrigue*.

"The Papacy," he says, "was thrown back upon itself by internal discords, and by opposition from without;" those discords arising from the same sources as the opposition from without. He goes on to show how the attack upon the temporal dominion of the Papacy was "connected with the division of the Catholic world into two adverse portions, the Austrian and French parties, which the Popes had no longer power either to overrule or to pacify."

Here is the key to the whole question. Here is the true

origin of the Papal "difficulty." Every fact of subsequent history (as we shall show) attests it.

The historian traces the struggle between the Papacy and arbitrary power in France, under the Bourbons. And he shows how the fault could not have been on the side of the Pontiffs at this period, for he describes them in the highest terms of eulogy. He also shows, what can scarcely be concealed from the most careless observer, how these struggles tended, by the intrigues which they occasioned, to weaken the Papal rule. And so of Austria. He shows how the Popes had to encounter imperial oppression.

"At this time, not only had German Austria established herself in Italy, while in a state of almost open warfare with the Pope, but even the Duke of Savoy had attained to royal power, and a large extension of territory, in defiance of the Papal opposition."

It is remarkable that in its very origin, the royal house of Savoy was hostile to the Papacy, and may be said to have risen in rivalry, and on hopes of the ruin of its Italian supremacy. Hence there has been, on the part of that house, a spirit of perpetual and insidious aggression and intrigue directed against the temporal rule of the Papacy; using either Austria or France for its purposes, as the occasions might suggest, or as opportunity might serve. And to this more than to any other cause, except the kindred causes of the French Revolution and the Josephist despotism in Austria, are to be ascribed those intrigues in Italy and those discontents and disturbances which are, with such entire ignorance of history, attributed to Papal misgovernment. A contemporary well observes:

"But in the next half century, the firm arm of Napoleon worked deadlier mischief than the intrigues of Alberoni. The Lutheran historian describes how Italy was revolutionised in 1796. 'Revolutionary States arose in all directions: the Pope was already threatened by them, not only in his territories, but in his capital also.' 'His States were invaded, his people incited to revolt; exorbitant contributions, such as he found it impossible to raise, were forced upon him,' and his temporal sovereignty was, in a word, ultimately abolished.' And hence at the early part of the present century, when Napoleon grasped empire, 'the revolutionary power was again triumphant,' says Ranke, 'and obtained a decided preponderance in Italy.' The Pope he represents as allowed by the Emperor 'to retain a seeming possession of power.' At last he was deprived even of that. 'The Concordat of Fontainebleau in 1813, was arranged,' says Ranke, 'on the understanding that he should

no more return to Rome.' It is remarkable that even the Lutheran historian appears to have been shocked at the result which, he says, must have ensued had this state of things continued. 'The Papal authority would have become an instrument in the hands of the new dynasty at all times. The Papacy would have returned to the position which it held with regard to some of the German Emperors, but would have been subjected to much heavier bonds. In this there was something that directly contradicted the essential principles of the Church. It was a spirit of opposition to ecclesiastical influences which had made itself manifest in so determined a disposition to positive infidelity. To this malignantly hostile power the Papacy would have been subjected, and placed in a state of vassalage.'

And let it be observed, that these views were adopted by English statesmen at the Treaty of Vienna: as we read in the pages of Alison. And as, on the one hand it was to English statesmen that the Holy See owed its restoration, so ought Englishmen not to forget that the excuse for its establishment was its refusal to unite in the league against England. It was not in vain that the Pope reflected, that of all the European powers, Protestant England was almost the only one which had never entered upon any aggression against Rome. Nor was it in vain that English statesmen saw the certain results of the subversion of the Papal Sovereignty.

What said Napoleon of it? "I would have directed the religious world as well as the political." In a word, it would have made him absolute master of the continent. Alison too, saw this, and quotes Bossuet, to confirm the prescience of Buonaparte:—

"Bossuet has assigned the reason, with his usual elevation of thought, why such a spoliation of all the possessions of the Supreme Pontiff, by a secular power, must ever be prejudicial to the best interests of religion. 'God has chosen that the Church, the common mother of all nations, should be independent of all, in its temporal affairs, and that the common centre to which all the faithful should look, should be placed in a situation above the partialities which the different interests and jealousies of states might occasion.' And Alison adds, 'The subjection of the Supreme Pontiff to the direct control of France or Austria, is as fatal to the character and respectability as the control of the rural congregations is to the utility of the cottage pastor. It will ever be the great object of tyranny, regal or democratic, to tread down the central independent authority.'

Memorable words! very recently and remarkably veri-

fied. So thought British statesmen at the time of the Treaty of Vienna. So thought British statesmen ten years ago, when the Sovereign Pontiff, imprisoned by an insolent faction, sought refuge in flight.

The mode in which Napoleon I. viewed the Papal states was precisely that in which ever since, the French have intrigued to secure the same object, latterly, with the aid of Sardinia. The Directory in 1797 wrote thus: "They trust to General Bonaparte to bring about a democratic revolution in the Roman States with as little convulsion as possible." (Alison, vi. 166.) The hateful and fatal policy succeeded too soon—with what results the historian has shown. Meanwhile the pillage of the ecclesiastical states continued without intermission; and having exhausted the public treasury, and drained the country of all specie, the French agents laid their rapacious hands on all the jewels and precious stones they could find. The value of the plunder they thus got was astonishing," (ibid.) "The Pope," says the French ambassador at Rome, to Napoleon, "gives us full satisfaction in the payment of the 30,000,000 francs. But it is with the utmost difficulty that these payments are raised: the country is exhausted, let us not drive it to bankruptcy," (Ibid. note.)

Again.

"The people are exhausted; it is vain to expect the destitute to pay. I take advantage of these circumstances to prostrate Rome and the Papal Government. Discontent is at its height in the Papal States. The government will fall to pieces of itself. We are making it expire before a slow fire—it will soon crumble into dust."

The historian then continues to picture the condition of the Pope, alas! too much the same ever since!

"At the mercy of the French—threatened with heavings of the democratic spirit within his own dominions, and exposed to all the contagion arising from the complete establishment and close vicinity of republican governments. The pontifical treasury exhausted by the immense payments stipulated by the treaty of Tolentino, and the enormous subsequent contributions levied by the French, while the activity and zeal of the revolutionary clubs in all the principal towns of the Ecclesiastical States was daily increasing." (Ibid. 167.)

We have before us a French work, giving an account of Italy, and especially of the Roman States, just before and after the French invasion, which will give an idea of the

terrible effects it produced.* "I was in Rome," says the writer, "in 1791. The city had then 166,000 inhabitants; and it was full of fine buildings, which had a character of grandeur and opulence." "In 1812-13, when he wrote, the population had declined to 100,000; and of those, more than ten thousand, he says, were gardeners, &c. There are vast quarters of Rome which are no better than villages." This immense change he avows was to be ascribed to the political events (*les evenements politiques*, delicate phrase for plunder and pillage!) of the twenty years which had intervened. The Frenchman had not the audacity to ascribe it to misgovernment. And he said that the Roman agriculture was that of Tuscany.

In 1809 Napoleon seized the Papal States; as Sir A. Alison tells us, (vol. xiii. p. 138) the Roman territory was speedily subjected to the whole Imperial regime. The conscription, the continental system, and the taxes levied upon the French system, were carried to the credit of the imperial budget. What was the proximate cause or excuse of this infamous measure of spoliation? The Pope's refusal to adopt this continental system of the Emperor, and its treating with England his great enemy. Englishmen should remember this: and the Pontiff's noble language to the tyrant is thus generously recorded by the Protestant historian:—

"The demand to dismiss the envoys of Russia, England, and Sweden, is positively refused; the Father of the Faithful is bound to remain at peace with all, without distinction of Catholic or heretic. Pius VII., to the Emperor, March 12, 1806." (Cited by Alison, xiii. p. 118, in notes.)

But what was the real motive of this measure on the part of the Emperor? He himself has told the world, in words which the world would do well to remember, and which are thus recorded by Alison: "By annexing the Papal States, I obtained the important object of separating his temporal from his spiritual authority." Well, and what then? Mark, that, in Roman Catholic countries where the papal power is lowest, bigotry and tyranny are ever the greatest. Thus the Count de Montalembert says, speaking of the anti-papal legislators of Austria and

* *Lettres Ecrites d'Italie en 1812-13. par F. de Chateaufvreaux, Paris 1820.*

the House of Bourbon, and of the system of despotism established, that in Germany and Lombardy, by Joseph II., and in Tuscany by Peter Leopold, and of the measures of spoliation and violence taken by those two absolute sovereigns. "In Tuscany," says the Count, "there were, (that was in 1852) the laws of Leopold, which secured the servitude of the Church, as those of Joseph II. in Germany. All the shackles placed upon the independence of the life of the Church are maintained. Much is said of the excellent changes introduced by the Grand Duke into the system of public instruction, he has subjected all the educational establishments to the episcopacy. But as the bishops are subject in everything to the government, what security is there for the liberty of their action and for its duration?" Whatever complaints then were made of Austrian oppression or despotism down to the happy era of the *Concordat* are to be ascribed, not to Papal but antipapal influences. As we shall show.

Since the Treaty of Vienna, at which, with the full concurrence of England, the Papal sovereignty was restored, it has suffered incessantly, not merely from the temporal depression occasioned by the iniquitous spoliations of Napoleon, but what has been infinitely worse, the moral infection of French irreligion and revolutionary influence, combined with the discontent occasioned by the armed intervention and military despotism of Austria; discontent continually kept alive, irritated, and inflamed by the interested intrigues and insidious machinations of Sardinia. No other state ever suffered from such a combination of difficulties—such a complication of embarrassments. And the wonder is, not that there should be some discontent, or even some plausible appearance of occasional excuse for it, but that there should be, admitting such formidable difficulties, a government so little open to any real substantial complaint.

This we will show from authorities the most hostile.

Take, for instance, that work of Farini, which embodies, in a formal and elaborate manner, all the matters of complaint that can be urged against the Papal government, and which, as we shall see, furnishes the staple of all the invectives circulated against it.

The first thing to be noted is, that this, as all other attacks upon that government, is essentially of Sardinian origin. This circumstance is singular and significant, and

of itself suffices to show the little credit that can be attached to such attacks, and the interested and insidious motives in which they all originate. We can venture to say, that we defy any one to give us a complaint against Papal government, really originating with one of its own subjects. It is not Roman, but Sardinian complaints, we shall find we have to deal with. Their origin is not in Rome, but in Turin.

It is true Farini was born a subject of the Papacy, but his enmity to Papal government was excited by Sardinian intrigues. His political tutors were Gioberti and Balbo, both Turinese; he engaged in the intrigues they had incited, and found an asylum at Turin, whence emanate all the attacks upon that government, whether in the columns of the *Times*, or in the despatches of Count Cavour, or the speeches of Lord John Russell or Lord Palmerston, or in the pages of Farini, or Whiteside, or Lord Broughton. It was Gioberti's work on the civil and moral primacy of the Italians and Angeloni's on the federation among the Italian States, and Balbo's on the "*Hopes of Italy*," which excited the movement against the Papal government, not at all on account of its own inefficiency, but because they desired the downfall of ecclesiastical authority and the substitution of Sardinian for Roman supremacy in Italy. So of Mazzini, a Genoese, so of Massimo Azeglio, a Piedmontese. Whatever the particular political views and ultimate aims of the assailants of Papal government, it is, we repeat, a most singular and significant fact, that they are subjects of Sardinia, or under its influence.

And this is the case with Farini, who wrote at Turin, just as Mazzini dedicated his first work on the subject to the king of Sardinia.

Farini, therefore, is a witness hostile to the Papacy. But we shall find that his history confirms the view we have presented, viz., that the discontent with Papal rule originates not in its inefficiency, but in the interested intrigues and interventions of foreigners. Let us place together a few extracts from Farini, in tracing the history of Italy from 1815 to 1831. We shall see in a striking light the vagueness of all complaints of Papal government as compared with the deep and vivid sense of foreign interventions, while at the same time we also see how the occasion or necessity for these interventions arose from the

infection of French principles, or the oppressiveness of Austrian despotism. And let us bear in mind that down to the last few years the government of Austria was at once anti-papal and despotic, and that of all who suffered from its despotism none suffered so deeply as the Popes, and nothing was so mischievous to Papal authority, which, having to rely on its aid, owing to the French revolution, and the wars of Napoleon, naturally got to be, in men's minds, associated with it. Look, then, at the picture which Farini gives of Italy during that period.

"In the twenty years of the French revolution, and the wars attending it, our wretched land was trampled by aliens of every race, until at last it both had lost the ancient liberties of some of its noblest provinces, and saw dragged under the yoke of Austria, besides Lombardy, the whole Venetian territory, *with some places and fortresses of the Papal states.*"

The clear meaning of which is, that these places, by passing from Papal rule to Austrian, lost their ancient liberties, which quite confirms the account given by Ranke.

"The commonalties (commoners) were in servitude, the states were fiefs, the sovereigns were Austrian prefects; if at that period *there was any token of a spirit of independence it appeared to proceed from the court of Rome*, which made complaints of the abstraction of its territory beyond the Po, and of the occupation of its fortresses at Ferrara and Commachio."

"Cardinal Consalvi, who was a sagacious person, made complaints and protestations at Vienna."

Why? Because that sagacious man foresaw the mischief which would ensue through armed Austrian occupation in the Papal states. He resisted, but in vain. And he resisted without the sympathy of the Italians themselves, for Farini adds:—

"But the people of the Roman States, and particularly those of the northern provinces, which had advanced the furthest in the modern ideas, cared little, perhaps were pleased, that the ecclesiastics should suffer disgrace and detriment."

The "modern ideas," that is, aversion to the priesthood and alienation from the Church. The "modern ideas," engendered by the French revolution and the French occupation of Italy, and the contagion of French irreligion. Farini does not point to misgovernment as the

cause of this feeling, but prejudice against ecclesiastical rule, as such. Merely because it is ecclesiastical.

And he is obliged to acknowledge that while the Papal court resisted with spirit the armed occupation of Austria, his countrymen connived at it, from a childish jealousy of ecclesiastical rule, under which, as Ranke shows, their country had acquired all its wealth, its influence, and its glory! Were these creatures fit for self-government? Preferring the military oppression of foreigners to the mild pacific rule of their native sovereign, who sought, like all his predecessors, only the enfranchisement and independence of Italy! Farini tells us:—

“In the Pontifical States the ecclesiastics returned to the exercise of those civil offices which in former times, when society was in its infancy, they had filled, *not without distinction to themselves and advantage to the public*, but which they had resumed by mere privilege of caste.” “It is manifest how much evil this must have caused to the laity, and how much jealousy to the clergy.”

The “jealousy to the clergy” is “manifest” enough, but not the “evil to the laity;” for what could it matter to the body of the laity, by whom they were governed, if they were governed well? That is how the Pope put it, and it is the practical way of putting it. And in that view it is plain Farini has nothing to say against it, for he admits that ecclesiastics had governed well; and as to the “infancy of society,” our readers will appreciate that, having had their memories refreshed by the history of Ranke. The fifteenth, sixteenth, and seventeenth centuries, were not exactly the “infancy of society.” The real truth is, that the few laymen who lost office were jealous, and created all the cry about Papal misgovernment, yielding themselves readily to Sardinian intrigue. This was exactly Farini’s case. He lost his place and took refuge at Turin. The “cry” is simply, so far as it is Roman at all, the cry of displaced officials, jealous of ecclesiastics who displaced them. The reasons for preferring ecclesiastics are another matter. Probably the necessity for economy was one reason. At present we are content with the fact that Farini confesses the “jealousy of the clergy;” with how little foundation, he elsewhere shows, stating that for 300 churchmen there are 5000 laymen in the Papal administration.

But he goes on to confirm the view we have presented,

as to the causes of the troubles in the Papal States. He includes French irreligion.

"And the philosophical doctrines, which take their name from the Encyclopedists, had penetrated among us during the sway of the French, so that the authority of Rome had greatly declined among the educated classes, and men thought and wrote in the French manner."

He mentions incidentally, however, that some choice spirits among the Italians "attained to celebrity and honour within their native districts," which does not look as if the Papal government was so very bad. Then he goes on to state how the sect of the Carbonari arose in Italy. And it is remarkable that he mentions what we believe to be the fact, that this sect arose not in the Papal States, but in Naples. It then penetrated into the Roman states; but in a work we have before us it is stated that the Carbonari were not originally hostile to the Papacy, their object being the liberation of Italy, which they knew was also the object of the Papacy. It was only later that they imbibed the fatal infection of French or Sardinian irreligion and became hostile to the Church. This has been the case ever since. A work lies before us, "*Memoirs of the Secret Societies of the South of Italy*,"* showing that what Mr. D'Israeli has stated in parliament as to their existence and diffusion in Italy ever since the French revolution of 1796, is too true, and that the Carbonari, the foul offspring of Jacobinism, have never ceased to infest the Italian states. It is very observable that it is stated in this work, (p. 18,) that they arose first in Genoa, and were designed to annex it to France. The original object of these Italian liberals was the expulsion of the French, and that they had no objection to the Papal government. (p. 13.) To throw off the yoke of the foreigners had been the exhortation directed against all foreign powers; it was now directed against the French. But the cry of Italian independence soon found a more dangerous application, for it became the rallying-word of all factions against the legitimate governments of the country.

So Farini tells us that it was against Austria that the Carbonari directed their early enterprises. It was only

* London, Murray, 1821.

when they found that the Papal government by necessity was forced to lean rather on the arms of Austria, that they were led to look upon it with hostility. It is thus he puts it, (p. 10,) "Rome was fearful of the liberals; she did not use great severity, but she allowed Austria," &c. As if she could help it! Austria occupying portions of the Papal territory against the will of the Papal government! How absurd to make it answer for the acts of Austria! Yet so it has been ever since. Such is the price Rome has paid for Austrian aid. The loss of its popularity.

Farini goes on to tell us more of the truth on this head.

"The Sect of the Carbonari in extending itself, received men who were so profligate that amidst revolutionary feats, they insidiously dipped their hands in blood. Thus the civil feuds were aggravated, and the seeds of lasting hatred and resentment sown."

Yet still he says, "Consalvi could ill endure any foreign intervention;" and he quotes a letter of the Cardinal's in which he calls it "a remedy worse than the disease." Then he goes on to show how Austria assumed the championship of absolutism in Italy, and bullied the Court of Rome "into a course of political severity." This is his account. But he very truly adds, "it followed that the Liberal party confounded in their hatred the foreign oppressor, and the feeble ecclesiastical government which appeared to be his tool." No doubt! That is our argument. The liberals "confounded" the Papal Government with the Austrian, and moreover, "confounded" the feebleness arising from foreign oppression, with a feebleness arising from inherent constitutions.

And then Farini further lets us into the truth when he goes on to say that the "political exiles," in their dispersion, detailed the proceedings of the Pontifical Government, "perhaps colouring them with spite." Exactly so. There is no bitterness like the bitterness of a political exile. This, the poetry of Dante, and the history of Farini, equally, although in such different forms, most strikingly display. To illustrate his own remarks about the spite of political exiles, the exile at Turin at once launches out into one of those diatribes against the Papal Government, which really defy refutation on account of their very looseness and unfairness. This indeed is the difficulty in the way of any defender of the

Papal Government. He can get nothing tangible to grapple with. Who can deal with such vague charges as "corruption," or "inefficiency," and so forth? What do they mean? what is corrupt? who is corrupt? what is feeble, or "inefficient?" What is bad, in the law, or in its administration? in the legislature, or the executive department of government? In its social or financial functions?

One would really feel quite grateful and glad to get hold of something specific, yet how hard it is to do so! Thus, Farini gives us the Manifesto of the Revolutionary Conspiracy in 1831. Here it is, (p. 467).

"Under the rule of the Pope, we are not only without fundamental laws, without national representation, but without provincial councils, without municipal authorities, without security for person and for property."

The last charge is really rich, in the mouth of a revolutionist and a conspirator. The best commentary on it is furnished by Farini, who says, (p. 64-65.)

"The people behaved in so loose and unruly a manner, that many disorders and crimes were committed with impunity. The hostility of intestine factions, and the suggestions of foreign powers, gave encouragement to excesses; and the illusions of passion, and of presumptuous ignorance, threw a veil so dense over the judgments of men, that the common herd of liberals lifted up their heads and played into the hands of those really guilty of treason or disorder."

So that the only failure of security to person and property, arose from the "intestine factions," and the evils they led to. This is precisely the truth.

Then as to the want of "national representation," and "provincial councils," why, as we have seen, Italy never had them, and it could scarcely be a grievance, so late in her history, that she still wanted something which she had wanted in the best days of her prosperity.

As to the want of fundamental law, it is very vague, but may be explained by what follows:—

"Our civil legislation was drawn in great part from the Code of Justinian, qualified from time to time by each successive *motu proprio*, according to the variations of successive Popes: add to these the mass of canons and Papal constitutions, and the innumerable decisions of courts having the force of law, which, to increase the difficulty, were in conflict with each other."

As the decisions of our own courts sometimes are. And the best way they find to avoid such differences, is to base their decisions on the principles of that Justinian Code, the prevalence of which, in the Papal States, this manifesto put forward as a *grievance*! Here is a specimen of the ignorance of these revilers of the Papal Government, and of their unfitness for self-government, that at the very period when the Courts of civilized countries are becoming more and more sensible of the excellence of the Civil Law, they should actually mention it with scorn as a grievance! The complaint, take it at the worst, merely comes to this, that the Roman States are governed by the civil and the canon law, just as England was before the separation; just as some of our colonies are still; just as she herself in a great degree is still; just as Rome, in its most glorious days, was governed; just as every State in Europe, including France, to this day, is more or less governed! These, forsooth, are the people who are to reform the Papal Government! These grossly ignorant charlatans, whose every sentence shows an utter ignorance of jurisprudence. These be thy gods, O Israel! These thy guides, O Italy!

"Again, for criminal law, we have had proclamations differing in the different provinces, which classified crimes, and measured their enormity, according to the decisions of theological casuists and not of statesmen."

Now here we see men actually making a *grievance* of that which is the *fame* of Romilly and Peel, that they sought, in unison with the enlightened principles of the Italian Jurist, Beccaria, to adapt punishments more to the real moral character of crimes, and their degrees of turpitude, repealing, for instance, the capital punishments for horse-stealing, or sheep-stealing, or forgery, and restricting such sentences to treason or murder. Here are men positively in the insane madness of faction, complaining that the Courts of the Papal States had made themselves models for Europe in this respect, and so much so as to have been followed by our own statesmen! Not with entire success; and they have still a great deal to learn in this respect, from the Roman Courts, as we shall show shortly; the want of propriety or proportion, in our criminal sentencing being still a painful scandal, though no one in his senses would speak of it as these insane

Italians did, as a pretext for revolution! And this nonsense is set before us as gospel, by Mr. Gladstone!

"The administration of justice could not be otherwise than a monstrous product of those minds which had favoured or invented a legislation so vicious."

Of course. But this is too vague, though so very violent. What are the proofs in illustration?

"A prætor as judge, in the first instance, of the causes of an entire province, had to make head against this multitude, and to take upon himself the charge of settling them."

What this may mean it is not easy to see, but if it means anything that we can make out, it merely means that there is a Chancellor who is at the head of the jurisprudence of a province, just as our Lord Chancellor is head of the law, or Sir Cresswell Cresswell is head of all the Probate Courts in the country, so that a suit may be instituted either in any one of those numerous courts, or in his own. In either view, or in any view, as a grievance, it is mere nonsense.

"In like manner a judge, deputed by the bishop, in each diocese, not only took cognizance of the questions that related to the persons of the clergy, or to matters ecclesiastical, but he likewise drew before him the laity, in all those causes which were called causes of the mixed forum."

Just as, until the Probate Court was established, the Ecclesiastical Courts in this country granted probate of wills or letters of administration; and now take cognizance of the fitness of clergymen for Church preferment in the Establishment, and marriages, and other matters of a mixed character. As a grievance this is really puerile. Then it is added: "The same causes were renewed in the way of appeal before the judges, also appointed by the bishops." This is more idle still, for courts without appeal surely would create a grievance, and to whom should ecclesiastical causes go but to judges appointed by the bishops? Our friends the Tractarians think it a grievance that they should go to judges appointed by the Crown. But in the Papal States, the Pope being sovereign Prince as well as sovereign Pontiff, is supreme in all matters, civil or ecclesiastical, so that a grievance on that head can hardly arise.

But then this precious manifesto goes on to complain

of the Court of the Rota (the finest court in Europe, on the model of which the finest of our own courts, the Privy Council, was framed,) and the *Segnatura*.

Here we may observe how stereotyped these frivolous charges against the Papal Government are! Such an utter want of any real substantial grievances is there, that its assailants are obliged to repeat over and over again, their ridiculous complaints. Thus in a pamphlet printed at Turin, in March, 1857, in reply to M. de Rayneval's famous note, and signed "*Un Sujet du Pape*," the following sketch is given of the "chief grievances in the judicial regimen in the Roman States." M. de Rayneval had declared that, on close examination, he had been unable to discover any grievances. The Pope's "subject," who writes however, from Turin, undertakes to point some out to him, and enumerates them thus:—

"Multiplicity of jurisdiction and tribunals. First, an episcopal tribunal in each diocese (there are 67 in the Pontifical States, in a population of 3,000,000 while in France there are only 80 dioceses.) This tribunal, composed of a single judge, who is the vicar, takes cognizance of civil and criminal cases, whatever their importance, whenever the persons or property of priests, of religious congregations, and of benevolent institutions are in question. Married clerks are also exempted from the ordinary jurisdiction. After this tribunal come those of the Inquisition, of the *Sacra Rota*, which is a sort of court of appeal in the third instance; of the *Segnatura*, analogous to the courts of cassation. Then we have the *Sacra Consulta*, which judges political crimes; the *Laurentano* tribunal, that of the bishops and regulars, that of the *Fabbrica di San Pietro*, &c. In short, all included, there are 13 or 14 in Rome, without reckoning the ordinary tribunals of first instance and appeal in the provinces."

Not long ago the "Roman Correspondent" of the *Times* quoted the above, and added these sapient remarks:

"I need add nothing to this exposure of the labyrinth of law courts. Without venturing among the special tribunals, you will perceive that ordinary causes may be tried four times, including the *Segnatura*."

Which is about as absurd as if a man were to say of the British courts, what a multiplicity of tribunals! a court ecclesiastical in each diocese! a Probate court in every county! half-a-dozen Courts of Chancery! a court of admiralty; a county court in each county, taking

cognizance of bankruptcy, insolvencies, and common law: Courts of Bankruptcy and Insolvency as well, and Superior Courts of common law for civil matters, with appeal-tribunals, Courts of Quarter Sessions (besides petty sessions, police courts, coroners' courts, and grand juries), for criminal matters, with the Courts of Assize, and a Court of Appeal on matters of law, but none on matters of fact (a real grievance by-the-bye, as we have shown in a former number). Added to these "Courts of Special Commission," and a host of peculiar courts, Commissioners of Sewers, &c., Charity Trusts, &c., &c.

"The jurisprudence in vogue is worthy of the rest. The laws in vigour are the Roman laws, down to the end of Justinian's empire; the canon law from the so-called *Decretum Gratiani* down to the end of the 15th century; to these are to be added a heap of bulls, ordinances, and edicts of Popes and decisions of tribunals. In lieu of this chaos the Romans ask for a code, any code; that of Napoleon, or, if it be refused, that of some other Italian country. They ask for a diminution of the number of tribunals, that these should be composed of laymen, and that the special courts should be abolished."

It may be confidently stated that the man did not know what he meant by the "Special courts." His ignorance is transcendental. "The Romans ask for a code, *any* code!" As if they had not had codes, civil and criminal; the civil code ever since the time of Justinian, the criminal code for many years.

And the best of it is, that we ourselves have neither civil nor criminal code! The other day this very *Times* wrote thus:—

"How many years have now glided by since a paragraph about Legal Reforms has been an invariable ingredient in a Royal Speech at the opening of Parliament! Whatever may be the point slurred over or omitted, a good sonorous phrase about the purification of the Statute-book and the consolidation of the Law is ever introduced. Men who once were young, are now wincing under the marks of advancing age. They have waited and waited for the accomplishment of these fair, delusive promises; and yet how little has been done in the way of their fulfilment! That something has been accomplished we deny not, and yet how little by comparison with what might have been achieved had the reform of the Statute-book been a party question!

"Again, with regard to the Criminal Law. Thanks to ROMILLY and a few enlightened men, we have now succeeded in purging this portion of our jurisprudence from some of its foulest and most

hideous incidents ; but in the year 1859, the *task of digesting the Criminal Law of England into a harmonious whole, remains to be performed*. It cannot be said that such an undertaking is not urgent, for in the year ending the 29th of September, 1857,—the latest period to which our returns extends—there were committed in England and Wales, upwards of 57,000 indictable offences. Surely, here is enough to engage the attention of the Criminal Law Reformer; and yet year after year we are put off with vague promises that the task which has now been so many years in hand will be brought to completion."

So that this very paper, whose correspondent at Rome represents the Romans as asking for "a code, *any* code," knows very well that we have no code; and does not know that the Romans have always had a civil code, and long had a very excellent criminal code!

And the idea of sneering at the Court of the Rota!—incomparably the best and greatest which ever has existed in the world! Composed of the best and most experienced judges which the Catholic States of Europe can furnish for it, it being deemed the highest privilege to be permitted to send a judge to it, so that Ranke actually mentions it as a great boon to Milan that Sixtus V. restored the privilege to it! A court, the constitution of which is as perfect as any human tribunal could be, and whose decisions have always been held in the highest veneration all over Europe! The idea of a Roman making this Court a grievance! and Mr. Gladstone believing it!

Dr. Bowyer says,* "the Rota of Genoa was constituted on the same plan as the Rota of Rome, and the celebrity which the latter tribunal has given to this species of court, renders the subject interesting." He tells us that "the decisions of the Genoese Rota are esteemed, although inferior in extent and celebrity to the decrees of the Rota Romana, in which, as each of the principal Roman Catholic states had the privilege of nominating a judge, there were always some of the first civilians and canonists in Europe." Its constitution was imitated by our own Judicial Council. And at the Roman Revolution, in 1848, no better President could be found than the "Dean of the Rota," who was accordingly chosen by the republicans. And it is remarkable how little the Roman Republic, when re-

* Dissertation on the *Statutes of the Italian cities*.

modelling the constitution of the Papal States, altered, or professed to alter practically the state of things they found existing. Still more important is it to remark how little there is of conflict and how much of harmony between the Roman system of law and our own. But the misfortune is that most of the scribblers on the subject are equally ignorant of both!

To return to the manifesto of 1831. As to criminal matters its complaint was this, that

"A president legate of the province, who was exclusive judge without appeal in civil matters, had the largest power to decide causes where the punishment extended to ten years of the galleys, without appeal, without regular process, without communicating the charge to the accused, and without any instrument (means) of defence."

As to which, let us look at what Farini himself states, having probably forgotten what he had cited from this mendacious "manifesto."

"Every capital of a province is the seat of a Collegiate Court, which administers justice as well in civil as in criminal matters. Public discussion is allowed in the first but not in the second. The independence of the judicial power is declared by the legislature and judicial rules. But in the edict of 1831 are these words: 'The legate or delegate, if he wishes it, may preside at the sittings of the courts which try criminal causes, *but without a voice*.' The trials criminal and civil are very long. There are *two tribunals of appeal*. The *sacra consulta* is the supreme court of appeal in capital causes. This court also tries state offences. The proceeding is *per via sommaria*, but the *decision* is reserved to the *Sacra Consulta*, a tribunal charged with the direction and forms of procedure. The record is communicated to the Advocate of the Poor, or the counsel chosen by the accused, when the choice has been approved by the President. It is not in these cases permitted to confront the witnesses with the accused, and the President examines the accused. The judgment is without appeal except in cases of capital punishment, where the evidence has not been unanimous."

Hence it appears, that what the manifesto states on the subject, is a tissue of falsehoods, and it is put forward under the auspices of Mr. Gladstone, in the very book which elsewhere shows that it is so; a specimen of the recklessness with which charges are made against Rome. It is only in cases of treason, or sedition, or conspiracy against the public peace that the special provisions apply,

which the manifesto ascribes to all offences. Mr. Whiteside fastened upon this part of the Gregorian code in order to found an attack against it. (vol. ii. p. 293.) He cites the code fairly, and we have no doubt sincerely declares his willingness to make every allowance for the difference of certain peculiar jurisprudence and national character. But he hardly succeeds in doing so. "Secret trials," (he exclaims,) "suppression of names of prosecutors and witnesses, refusal of means of making defence, special commissions, torture of the accused," (don't be alarmed, reader,) "by personal interrogations in prison, the code giving no definition of sedition or treason, and leaving it to a court so constituted to condemn, upon an extorted or perverted answer, an unfortunate accused to death." It sounds very dreadful. But take it to pieces, and what does it all come to? Simply that the Roman Criminal Courts follow a course of procedure more nearly resembling the French and Scotch systems, than our English and Irish systems, although, as for special commissions, we have heard of them in England and Ireland, and as to secret enquiries in prison, why it is really a most curious coincidence that it should have been reserved for Mr. Whiteside, as Attorney-General, to afford a commentary on the abuse he levels at the Roman system.* He overlooks, by-the-bye, that the *Sacra Consulta* has the "direction of the mode of procedure, according to the circumstances." And when he cried out that the code

* In the same papers we had accounts of the arrests in Ireland, for the suppression of the Riband conspiracies. We read of men arrested at the dead of night, dragged out of bed, and lodged in gaol, and secretly and separately examined in prison, until some of them were induced to turn informers, and betray their fellow conspirators. No doubt these are the only means by which conspiracies can be detected and suppressed. But is Ribandism worse than Carbonarism, or red republicanism? or are means of repression just and necessary in Belfast or Dublin, which are nefarious in Paris, Naples, or Milan? Nor can it be said that the conspiracies in Ireland were not without provocation, not without such palliation as ignorance can afford. The admirable letters of "*Cosmopolite*," in the *Times*, showed that a wretched state of things exists in that country, and the people had just sustained the entire disappointment of the exaggerated hopes which they had been led to entertain of tenant right.

gives no definition of the offence, he surely forgot that *we have no code at all*. When he declaims about 'secret trials,' and suppression of the names of witnesses and prosecutors, he mistakes the code which runs thus: "The process shall be communicated, together with the summary, to the Advocate of the Poor, or such other counsel as shall be named by the accused, and that there shall not in such causes be allowed any *personal confronting* of witnesses," which is quite another thing from suppression of the names, and quite immaterial, for if the witnesses are known, as they may be, and they are personal enemies, or of bad character, that can be shown. And when he talks of "refusal of means of making defence," he forgets that the Roman system actually not only permits, (which ours did not a few years ago,) but *provides* counsel for the accused. Then, as to personal interrogatories of the accused, Mr. Whiteside forgot that it was the practice in France, and even in *Scotland*, in part of our own country. And he also forgot that there are some jurists who think that it is a boon to the accused, if he be innocent, and ought to be allowed.

During the present session, Lord Brougham laid upon the table of the House of Lords, a Bill, the object of which he stated to be to extend to defendants in criminal cases, the *privilege* now enjoyed by those in civil cases, of being *examined if they chose*. The change was one, he admitted, which, as introducing a material alteration in the law of evidence, ought not to be adopted without due deliberation; "but he could not, at the same time, help thinking that the exclusion of defendants in criminal trials from the witness-box was based upon no solid reason. In 99 cases out of a 100 in which the Crown was the nominal, a private individual was the real prosecutor, and to contend that under such circumstances he might fairly be admitted to give testimony while his adversary was not allowed to say a word, was, he thought, an anomaly." The argument in support of this view is, that the prisoner can often explain, very easily, a matter which he cannot call any witness to explain. There are, no doubt, arguments the other way. And on this occasion, Lord Campbell stated that—

"He had been an advocate for the introduction of the change in civil cases to which his noble and learned friend had adverted, and was of opinion that the Act of 1851 had, upon the whole, worked

well, though a considerable amount of perjury had prevailed under its operation. But, he said, his noble and learned friend on the present occasion, proposed the entire subversion of the mode under which criminal justice had hitherto been administered in England, and would reduce it to a system somewhat resembling that which existed in foreign countries. Now if the change contemplated by the noble and learned lord were to take effect, it must apply to cases of high treason as well as to a misdemeanour or a felony, and what, he would ask, would be the situation of a person accused of the first-mentioned offence if he were reduced to the necessity of either refusing to give evidence, and thus in effect make an acknowledgment of his guilt, or going into a witness-box and submitting to a cross-examination as to every thoughtless expression which he might have uttered in his lifetime, or every indiscretion he might have committed? To subject any man to such an ordeal would be—and he spoke with the advantage of a long experience in such matters—greatly to augment the severity of the criminal law in all its departments. The result would inevitably be that the jury would set down as guilty those who refused to be examined. If his noble and learned friend had confined his Bill to one or two cases, as, for instance, that of perjury, and had provided that there the prosecutor should be heard on one side, and the defendant on the other, he could have understood such a proposal; but a measure so sweeping as this filled him with alarm."

The noble and learned lord forgot the law of Scotland, under which Madeline Smith, for instance, was officially interrogated before the trial, and with an effect very nearly fatal. See the effect of prejudice.

"Lord Brougham said, his noble and learned friend had rather astonished him by his reference to the practice in other countries, and to this measure as bearing the slightest analogy with, much less as resembling, that practice. What was the objection to the French system—an objection in which he entirely agreed? It was that the examination of the prisoner was conducted by the Court, that it was a compulsory examination, that every prisoner was subjected to what Lord Denman called a moral torture, that every word he had uttered out of court was brought against him on his examination in court, and that he had no means of escape, being compelled in all cases to undergo this questioning. But the present measure only proposed that the prisoner should be examined if he presented himself for that purpose. No doubt cross-examination would follow; but, if the prisoner were innocent, surely he would desire above all things to submit to this examination, while if guilty it would be that which he would most fear. His noble and learned friend had given his sanction to the Question Bill of 1851 (as to civil cases). Upon the whole that measure had worked

well, and had furnished the Court with additional opportunities for arriving at that which it was the only object of the Court to ascertain—the truth of the case before them.”

So that there are, it will be seen, strong arguments on both sides upon this, which is probably the most difficult problem of criminal jurisprudence. And without adopting either view in its entirety, what we complain of is, the absurdity and bigotry of assuming that the English view is the only true one, and fastening foul imputations on the Roman system because its procedure is necessarily quite different from ours, being based upon quite the opposite view.

“The Lord Chancellor agreed with the Lord Chief Justice in his disapproval of the practice sought to be introduced by the Bill. His noble and learned friend (Lord Brougham) said that this practice differed entirely from the French system, and that the latter consisted in a compulsory examination of the prisoner by the judge, who undoubtedly endeavoured, with all the practised dexterity at his command, to extract an acknowledgment of guilt. But the Bill contained even a worse feature, for, while in France the examination of the prisoner was not upon oath, his noble and learned friend proposed that he should be sworn to the truth of his statement; and, although the examination was to be optional, it was quite clear, as the Lord Chief Justice had remarked, that in practice it must be compulsory. Now it had been the boast of our law that we exhibited the greatest forbearance towards the accused, and where there was the least reasonable doubt of guilt it was invariably laid down that the prisoner was entitled to the benefit of that doubt. Now suppose a person were charged with an offence, the question of his guilt or innocence being involved in considerable doubt. At present the judge would so direct the jury as to incline the scale in favour of such a prisoner; but what would be said if the provisions of this Bill were adopted? Why, that one man, and one man only, could clear up the uncertainty, and if under such circumstances the accused refused to present himself for examination and cross-examination, and to expose, in so doing, his whole life—perhaps not a very moral one—to the probing questions which would be addressed to him, the natural presumption of the jury would be that he must be guilty. The result of the Bill, therefore, would be to introduce a total change in the law, and a change for the worse. It would be a change by which this country would lose the high reputation it had gained for the pure administration of justice. He would mention a curious circumstance illustrative of the notion which Parliament entertained of the disadvantage of allowing persons criminally accused to give evidence. In a proceeding in an action in the Court of Exchequer against a party for

an offence in violation of the revenue laws, a question arose whether the party against whom the information was filed was entitled to be a witness; and the decision on that point depended on the circumstance whether the case was a civil case involving a mere debt to the crown, or a criminal offence. The judges of the Court of Exchequer were equally divided on the matter; and the result was that an Act of Parliament was passed to render persons accused of offences against the revenue laws not competent to be witnesses. He believed that the revenue suffered very considerably by that law, because he had not the least doubt that were the parties accused of a breach of the revenue laws compelled to be witnesses in every case there would be a certain conviction. He had considered since last session, when a similar Bill was laid before their lordships, and he quite agreed with the Lord Chief Justice to the extent to which that noble and learned lord went, and he went further, because he was not desirous, in the slightest degree of breaking in upon the rule of law which prevented in criminal cases the parties accused from being examined."

"Lord Brougham observed that in criminal cases at present the prosecutor was examined, while the accused was not allowed to be examined, and the law was entirely inconsistent with itself."

The Bill no doubt will be rejected, but we cite the discussion upon it for the purpose of showing the difficulties which such questions raise, and the candour with which they should be discussed. Here we have three noble and learned lords discussing the subject, all forgetful that the law—at least in principle—was already law in their own country, and we have one of them considered one of the most enlightened men in Europe, deliberately proposing to alter the law, so as to bring it at all events nearly in accordance with the law of France and Rome, which the Irish Attorney-General was rash enough to hold up to repudiation. We have this further to remark upon the subject, that the feature in the French and Roman law to which we refer, necessarily affects the whole criminal procedure, and renders superfluous various safeguards which we set some value upon. For, if you interrogate the accused, obviously that must very much *economize evidence* and simplify the case, and make the arrival at the truth much more easy, and dispense with, or materially diminish the importance of many parts of our own procedure. And there are many who share Lord Brougham's view, that our system is unfavourable to the accused, if innocent.

To show the importance of the question, and likewise to

show what may be—aye, and in many similar cases has taken place under our law, let us cite here a sad story, told a year or two ago in the *Times* by Mr. Brady.

“Mr. T.—, a young man of high character, with respectable family connexions, was employed for 12 years in one of the largest firms in the ‘Manchester line’ in the city, the last three of which as buyer for the establishment; in that capacity he laid out on an average from 40,000*l.* to 50,000*l.* a-year. In the early part of the year 1853 he left town for Manchester by the night mail; on arriving at — station he changed his mind, and determined not to proceed to Manchester that night. On leaving the station for the hotel he was stopped by a police officer, who accused him of stealing the carpet bag which he had in his hand; on examination it was found to be the property of another gentleman. He endeavoured to explain that he took it by mistake; but to no purpose. He was searched; his ticket for Manchester was found on him. This fact was considered conclusive evidence that his leaving the train at this intermediate station was done for felonious purposes. Another policeman coming up at the moment at once recognized in the person of Mr. T.— a notorious swellmobsmen from London, and, jocosely taking the gold watch and chain from my friend’s neck, said, ‘I suppose this is part of the proceeds of your calling.’ Expostulation on the part of the accused was vain. He declared his innocence and asked for his own bag, but the idea of his possessing such an article was utterly ridiculed, and his request was looked upon as part of the sharper’s dodge. After a little further ceremony he was consigned to a cell for the night, to wait his examination. He implored permission to write to his wife, but so great a favour could not be granted.

“The accusation, even at this early stage, had done its work. Excitement set in, and in the agony of his distress he conceived the futile design of attempting to escape from the horror of the place he was in and the foulness of the charge. Unfortunately the attempt was made, and from that moment his fate was sealed. Without being permitted to communicate with his friends he was examined before the magistrates and committed to the county gaol. Eight days from this time his wife, who was in perfect ignorance of what had happened to her husband, went in great distress of mind to the city to make inquiries as to his absence, when to her consternation she was told that there was an account in a country newspaper of his having been committed to prison on a charge of robbery. At once she set off to his prison, and, after an interview, proceeded to the magistrate who committed him with a view of having him bailed out, but in vain.

“Now, without going into minute detail of what took place from the time of his wife seeing him in prison to the day of his trial, I shall state that the day for his trial was appointed; the solicitor

for the defence had instructions to telegraph to his brother, a gentleman of high character in the city, who, with my unhappy friend's employer, intended to be present at the trial, to speak to character. But the fatality which in the first instance befell him pursued him with unrelenting perseverance. The business of the court, which was calculated to occupy a certain time, was got over much sooner than was at first expected. Poor T—— was called upon to plead to the charge. His counsel, in defence, pointed out to the judge and jury the improbability of a man committing such an act who held a position of great trust in society, and whose character for honesty was beyond all question, as he should prove by evidence of the highest respectability. After his address, the names of the witnesses for character were called, but, as the trial unfortunately took place 24 hours earlier than in the ordinary course was expected, they were not present. The jury, without leaving the box, found him guilty; the judge approved the verdict, and the poor man was sentenced to some years' imprisonment.

"It may be asked, where was the wife all this time? Why was she not present? Wonder not! The day before the trial she gave birth to her sixth child, and from distress of mind was not expected to survive the day through. Fever came on, insensibility followed, and for ten days she was unconscious of everything about her. At the first gleam of returning sense she inquired of her nurse if John had returned home, evidently alluding to his usual return from business; but memory, like a flash of lightning, recalled to her his sad position, and she sank back into the state of insensibility from which she appeared to be recovering. I am not indulging in sentiment; I narrate what I saw. Three weeks later her two eldest children were carried off by an attack of scarlet fever; ten days more her infant died. Within three months from that time she received information from the governor of the gaol that her husband was dying, and that she must proceed immediately to him if she wished to see him alive. She entered his wretched cell. There, before her, lay her husband—a helpless, paralyzed old man—an idiot. His hair, which three months before had not a gray hair in it, was now perfectly white. His age, 35 years. Fortunately for him, he knew her not. Her passionate and heart-rending grief, which wrung the hearts of those around, fell dead on his ear; all human sympathies were gone. Reason was rudely jostled from her seat. He cared not for judge, jury, or policeman, and he gazed unconsciously on the wife of his early and affectionate love and the mother of his helpless children. I need not dwell upon this scene.

"After some formalities at the Home-office he was removed to a private asylum, near London. He was once more a free man, but to what purpose? In a short time he sank and died.

"This was just one of those cases in which it is easy to fix suspicion, and next to impossible to remove it. If no two carpet bags

were alike ; if there were no confusion at a railway-station on the arrival of a train ; no rush for luggage ; but, on the contrary, such order that it would be difficult—instead of easy as it is—to make a mistake ; if the railway authorities had on their part done their duty, and made proper search and enquiry for T——'s carpet bag, which they would not believe he possessed, but which they afterwards found ; if they had allowed him to communicate with his friends, so as to give him an opportunity before he was consigned to prison of proving that he was not one of the swell mob, as they rashly and fatally suspected, and if he had failed to verify the account he gave of himself—then indeed it might be said that there was a case for a jury. But there was no such case. The man was falsely accused, imprisoned, convicted, and driven mad."

Now, there is nothing extraordinary in this case ; although, as it happened to attract the attention of a member of Parliament, it created much sensation. And setting aside everything but the question, as to the admissibility of the evidence of the accused, who can doubt that had it been competent to examine him, his story as to his own carpet bag, would have been found so clear and convincing as to have secured his acquittal ? But his mouth was sealed. Observe that the main evidence against him was something in his words or acts, which he was not allowed to explain. The English law, admitting everything the accused may happen to drop, as evidence against him : but not admitting his explanation at the trial.

There was no fault in the Court in this shocking case. The learned Judge who tried it—no less a judge than Baron Parke—published his notes upon it, when Mr. Brady's letter appeared. How needless. No one would imagine he had erred. There lies the force of the case. The vice was in the system. The poor man's mouth was sealed, *except against himself*. There lies the fallacy of the argument in favour of our system, that, to examine the prisoner would be to run the risk of convicting him by some unexplainable admission. Anything the accused may drop, may be brought *against him*. But his own statements cannot be proved *in his favour*. Still less can he at the trial be heard. This gives much weight to the case above cited. Had the accused been examined he could have satisfied the jury of his innocence. He could have given such minute description of his carpet bag and its contents, as would have convinced them that

he had one. And that at once shows that the mistake would have been disclosed, but his mouth was closed. If such a shocking case could occur before such a great Judge as Baron Parke, what may not be expected to take place before inferior judges or inferior tribunals, where trials sometimes last ten minutes! No one can exaggerate the evil of the present system to the *innocent*. Take the case of Mr. Barber, so lately brought before Parliament, unjustly convicted and transported, simply because, his own mouth being closed, he could call no witnesses to explain certain features in the particular transaction. Compensation was awarded him by Parliament. A clear confession that his unjust conviction was the fault of our system of criminal justice. And at the very same time we are reviling the Roman system! It is hard to say whether ours is worst as regards the innocent or the guilty. The innocent are certain to be convicted, the guilty to be acquitted, unless there happen to be other parties than the accused to prove the facts. Hence persons notoriously guilty escape conviction. Several instances of recent occurrence present themselves. It is a common case, and occurred at Guildhall last sittings, for the judge, with the full concurrence of the jury, and every one else present, to commit a witness for gross perjury, and for that same man, when tried, to escape with ease. The reason is that on the one occasion he is examined, on the other he is not. While these pages are being composed, the writer has witnessed a similar case at the Assizes.

When noble and learned lords, and honourable and learned gentlemen, show such obliviousness as we have seen respecting the laws of this country, we can scarcely be surprised at the ignorance of the newspaper writers. They are as unacquainted with the laws of other countries as of their own. Their "correspondents" sometimes may happen to pick up a little (bad) law of the country they are in, but they know nothing of the law of their own. And hence, they continually fall into the grossest blunders, and make the most mischievous misrepresentations as to the laws of the Italian States. Thus, not long ago, the *Times* Correspondent in Naples thus wrote:—

"An incident occurred here early in the month, not, I believe, generally known, which shows the double subjection to which the

people of this country are exposed, and the folly which, under the name of morality, may at any time expose them to a domiciliary visit, and also to a prison. A Tuscan sculptor called Federico Bernalini, residing in Naples, had in his studio for the necessary purposes of his art, an anatomical statue, considered by some moral persons of a very prurient imagination to be a violation of public decency; whereupon, at the instigation of the *cursé*, as I am informed, the police entered his house, took possession of him and his statue, and consigned him to prison. This happened on the 9th inst. In the meantime Signor Frescobaldi, the Tuscan Minister, applied to the Minister of Foreign Affairs, and on the 13th he was released. There are, however, I believe, some proceedings, what I do not exactly know, going forward against the unfortunate sculptor. Since the passing of certain ecclesiastical decrees two years ago, which put immense wealth into the hands of the church, the clerical power, always great, has been much increased, and now, as the guardians of public morality and decency, they can command, and do command, the interference of the police authorities in any case where they think right. As I am informed, it rests with the Cardinal in the city, and the Bishops in the provinces, to empower a priest to summon the police, who have no alternative but to obey. I am most unwilling to misrepresent, and am at all times ready to correct an erroneous statement, but I believe that my account is indisputable, and if so, it is clear enough that the Neapolitan is bound hand and foot, mind and body. Liberty in this country! It is the liberty of existence only which is enjoyed."

The writer of the above was evidently unaware that the British Parliament, at the suggestion of Lord Campbell, had passed an act, the object and effect of which is to place it in the power of any priest, or any layman, to procure, upon his simple oath and application, a search warrant, whereby to search for, and seize any obscene prints, which the magistrates may, upon inspection, order to be burnt. "Liberty in this country!" the obscene printseller may exclaim!

To recur to the book of Farini. He states that in cases of sedition, &c., the accused may not call any witnesses in exculpation, which is certainly, as we read the Code, entirely an erroneous construction, for we see no exclusion of such evidence. But even if there is, it is comparatively immaterial when we recollect that the accused himself is amenable, and that the Roman law, like the English, in criminal cases, gives the accused the benefit of any doubt. The truth is, that the interrogation of the accused makes the whole difference between the French or Roman pro-

ceedings and our own, and renders any comparison between them, or any judgment of the one formed upon a knowledge of the other, extremely fallacious. And if this is the case with those who are acquainted with the law of our country, how much more so with those who are acquainted with the laws of neither?

By this time our readers are probably in a position to appreciate the manifesto which formed the pretext for the insurrection of 1831, and has since formed the staple of all subsequent accusations against the Government of the Papal States.

Farini himself is obliged to admit that France sent M. de St. Aulaire to learn the truth about the matter, and that he declared himself "to be persuaded of the good government of the Roman states," (p. 73,) as other French statesmen have since declared themselves to be: Rayneval, Courcelles, &c.

And here it may be well observed that all competent and impartial testimony is in favour of the Papal Government; for French, English, or Irish Catholic laymen surely are as important witnesses as can be obtained, and if lawyers, or statesmen surely are competent. To the French witnesses we add the names of Bowyer and Maguire. What have we on the other side? Nothing, absolutely nothing entitled to attention save the works of Whiteside and Farini. As to these certainly they are competent, but are they impartial? An Irish Orangeman and an exile at Turin! Taking their testimony, however, for what it is worth—what is it worth?

We will also observe here that there is a singular absence of any distinct and attested cases of grievance or injustice suffered under the system of the Papal Government. We say *system*, for of course no one argues that the servants of the Papal Government never fail in their duty. But still it is a singular fact that we have searched in vain for any one single, definite, attested case of grievance or injustice suffered under the Papal Government. And as we have seen, and shall yet more clearly show, that is more than can be said of our own country, or any other that we know of.

The "Four Powers" recommended "reforms," of which the principal were that the laity should be generally admitted to administrative and judicial functions, that improvements should be made in the judicial system, and that the

municipal system should be restored and extended. As to the "judicial system" we have probably said enough; as to the admission of laymen, Farini himself states that there are 5000 laymen to 300 churchmen. And the only reasons for the preference of ecclesiastics for the higher departments, (except the obvious economical one,) was the very same which indisposed the Papal government to the extension of the municipal system, viz., a distrust, from long and sad experience, of the intrigues of foreign powers, or of intestine faction, among the laity. And that there was reason for this, a curious passage in Farini's work shows very strikingly.

"It cannot be doubted that Austria had from a remote date desired to extend her sway to the four Pontifical Legations, that she had studied the means of acquiring them in 1815, and still cherished the hope of doing so. Accordingly her official *servants murmured against* clerical government, and drew comparisons to its extreme disadvantage with the government of Lombardy." (p. 87.) "Austria wished Europe to understand that the government of the Pope was feeble and in its dotage, and that her troops were indispensable to keep in order the unruly inhabitants of the Legations." (p. 63.)

Can it be wondered at that the Papal government has distrusted the "recommendations" of its allies? Her lay subjects were being tampered with on all sides, and it was only on the clergy, and not always, it appears, even on them, that it could rely.

In truth, to ask that the higher offices shall be lay is to ask that the Government shall not be Papal. And it is plain that what the malcontents desired was the subversion of the Pontifical government. Thus the manifesto of 1845 required 1. That *all* offices, civil, military, or judicial, be given to laymen; 2. That the Supreme Council should be chosen from popular representatives; and 3. That a civic guard should be established. The Papal government would no longer have existed. Here observe the *intolerance* of your "liberal" assailants of the Holy See. The Papacy freely employs laymen. They would proscribe churchmen.

Yet Farini himself testifies to an exceptional state of society in Italy: and the prevalence of secret societies among the laity. "The liberal sects of Romagna" (says Farini) "had begun at an early date to imbrue their hands

in the blood of their party opponents. The example was fatal. Blood brought forth blood."

Mr. Maguire, whose work commences with the Pontificate of Pius IX. (prefaced by a brief sketch in his previous career), discloses quite enough of his narrative of the Roman revolution of 1847, and its antecedents, to show that the real source of the troubles of the Holy See's temporal rule is to be traced to the era of the French revolution and its results. Thus he mentions that the "amnesty of 1831 only gave the opportunity for fresh protestations and fresh plots;" so dogged and implacable was the spirit of revolutionary frenzy kindled in Italy by the infidel fury of the Jacobins.

In another place Mr. Maguire remarks that "it is idle for the people of England to contrast the condition of their country with that of a small and feeble state which has been terribly scourged by war and revolution several times within the present century."

With the Papal government it has been, and is, a question of self-preservation, surrounded as it is by hostile intrigues, and embarrassed by domestic factions they have engendered. The selfsame popular system which in other countries might be innocuous, here might be pernicious, not because the bulk of the people are discontented, but because the badly-disposed would use the power they acquired for the purposes of disturbance.

Ever since the restoration of the Pope, in 1814, the Papal administration has been engaged, as Protestant writers have candidly stated, in trying to remedy the disorders which a quarter of a century of revolution, confiscation, and confusion had necessarily caused, and has been embarrassed by the demand for popular representation and political institutions. The proclamation of 1816 introduced, it is admitted,* many great improvements, though under great difficulties. So in 1831 new codes of law were issued, which it is admitted were "unquestionable improvements. But the republican leaven led some places to a clamour for elective institutions, although it is admitted that those who roused it "would be satisfied with nothing short of a complete emancipation from the Papal rule," and doubtless desired the electoral institutions to

* Spalding's History of Italy, vol. iii. p. 136, note.

promote that object. The Pope perceived this and refused them, subsequent events have shown how wisely. It has been shown that had Leo XII. or Pius VIII. granted what they had refused, the result would have been revolution. Never had the prescience of the Roman Pontiff been more remarkably illustrated. Voltaire* had long ago mentioned, as a kind of *reductio ad absurdum*, the grant of a political constitution to the Roman States. "It is vain to recall ancient usages, &c.; a citizen of Rome would have as good ground for asking of the Pope consuls, tribunes, a senate, popular assemblies and the complete re-establishment of the Roman republic." These words were prophetic. They implied that to grant a popular assembly or a senate would be to establish a republic. So thought the Pontiffs. Pius IX. yielded, against his own judgment, to the "spirit of the times." Within a few months the republic was established, and he was in exile.

We repeat that the manifesto of 1845, printed by Farini, shows what he elsewhere states as the truth, that the malcontents would be satisfied with nothing short of the subversion of the Papal government. Knowing this, and being resolved to maintain it, Pius IX. resolved also to remove all *pretext* for it, and to place the malcontents in the wrong, by conceding all they professed to claim. The wisdom of the Holy See was never more marked. The result was to show to all the world what his predecessors had always declared, but which the world would not believe, "that the question was the maintenance of the Papal government. What that involved is too large a question to be dealt with here.

"Lord Lansdowne, in his speech of the 21st July, 1849, pointing out that 'the Pope, by his temporal power, is but a monarch of the fourth or fifth class, but that, by his spiritual power, he enjoys a sovereignty unequalled in the universe, said *that every state with Catholic subjects has an interest in the condition of the Roman States, and is bound to see that the Pope is able to exercise his authority without being fettered by any temporal influence of a nature to affect his spiritual power.*'"

"M. de Montalembert says, if it be established that the Pope cannot be the subject of a foreign lord, is it not equally clear, and for the same reasons, *that he cannot be the subject of his own people?*"

* Essai, &c., from iii. ch. 86.

If the chief of our religion is to be free, as regards Austria or Spain, is he not to be *equally free as regards his own subjects*? Why should the Catholics of France consent to see the Pope under the dominion of the Romans rather than of the Russians or the English?"

Pius IX. commenced his pontificate with an amnesty, and was repaid by conspiracy.

"On the one hand," says Mr. Maguire, "was the large-hearted, high-souled Pontiff, abounding in love for his people, anxious to confer upon them the largest amount of freedom compatible with the safety and the preservation of interests sacred in the estimation of the Christian world; and on the other, a band of insane revolutionists, who, gathered from different parts of the Italian peninsula, were sworn to subvert and destroy all forms of government that stood in the path of their reckless ambition."

Had the Pontiff adhered to the policy of his predecessors, and refused all political concessions, it would have been said that he was responsible for what ensued, but as it was, he was exonerated in the eyes of all Europe. The event proved that the acute perceptions of Voltaire and of Ranke had led to the right conclusions, and that political institutions did not suit the spirit and character of the Italian people, and that preceding Pontiffs had been right in refusing them.

—And well might the Count de Montalembert ask, in a pamphlet which was not quite so popular in this country as his last—

"What, pray, has Pius IX. been but the most spontaneously liberal, the most frankly reforming sovereign that exists to-day in Europe? Of all who at this moment are upon the throne, there is not one who has done so much as he for the liberty of his people, not even the King of the Belgians, who only received his crown as the corollary of their liberty; not even the King of Sardinia, who inherited an authority that his father had only acquired after a reign of fifteen years, and under the pressure of circumstances. Pius IX., on the contrary, of himself, from the first day of his accession, before anything outside of Rome or Italy had shown him the necessity of it, not only amnestied all exiles and political *détenus*, but led his people along the path of reforms and liberal institutions, perhaps at too precipitate a pace. That the partisans of retrogression, that the obstinate votaries of routine should have charged him with this as a crime is not a matter of surprise. But in what has he been wanting to the desires, to the requirements of the sincere friends of Italy and liberty? Since M. Thiers cried from the French Tribune, 'Courage, Holy Father, courage!' when has he

been wanting in that moral and physical courage which for every sovereign is even more a necessity than a virtue? M. Thiers has himself recognised this when the orator of 1847 wrote in 1849 that report on the expedition to Rome which will be in honour of his life."

Let the reader attend to what follows:—

"How sad soever may have been the issue of the political reforms inaugurated by Pius IX. in 1846, every enlightened and impartial judge will never tire of congratulating himself upon them. If he had refused all concessions to the spirit of the times, the revolution would not the less have broken out at Rome after the catastrophe of February, and then the vulgar crowd would have declared: The Pope might have spared his people these evils, but he would not: he persisted in an impossible resistance; he has proved that the Papacy is a superannuated institution, incompatible with modern ideas.

"Pius IX., without sacrificing any right or any duty, has given the lie to these sophisms. He has deprived the revolution of every decent pretext. But he has not succeeded in disarming calumny.

"To hear the speeches of Lord Palmerston and his adherents, one is tempted to believe that the Pope has destroyed a constitution as old as centuries—a liberty already popular, and rooted in the Roman States. But who, pray, we ask these strange revilers, who, pray, introduced political liberty among the Romans?—who, not only blessed and sanctioned, but fathered, granted, invented it, if not the Pope? And who destroyed it, if not you? Yes, *you*, by means of your clients the Radicals and revolutionists, already immeasurably encouraged by the mission of Lord Minto, by that incendiary promenade of a semi-official plenipotentiary investing himself everywhere with the right of publicly criticising sovereigns, and exciting populations already inflammable?

"Yes, *you* by your deplorable complaisance for men whose criminal folly you might then ignore, but whom you are inexcusable for encouraging still, after learning by the saddest experience how incapable they are of appreciating, of preserving, of loving that liberty which you have the happiness to possess yourselves, and which you pretend to defend elsewhere. Why do you reproach Pius IX. with what is the exclusive crime of your friends, of your present allies and *protégés*?"

The Count de Montalembert, in his pamphlet published in 1852, "*Pius IX.*," alludes indignantly to those allies.

"Who at Rome drowned in the blood of M. Rossi, basely assassinated at the foot of the constitutional tribune, all the guarantees given by Pius IX. to the people of Rome, and all the sympathies felt for it by Christian Europe.

"And what was the pretext chosen for misconstruing, for forgetting, for calumniating the services and the benefits of this great heart? Ah, it is here more than anywhere that we see the injustice and ingratitude of men in general, and of statesmen in particular. Why has Pope Pius IX. been persecuted, besieged, imprisoned, condemned to exile, and dethroned? Not for having refused liberty or guarantees to the most exacting of his subjects, to the most ungrateful of the condemned whom he pardoned: he had given far more than was expected of him—more, perhaps, than was desired. It was solely for not choosing to declare war himself against Austria, and to sacrifice that character of sovereign neutrality, of pacific impartiality, imposed on him by his august mission on this earth. No minister—no politician worthy of the name—should ever forget that noble example of moral courage and political intelligence. Let any one read or hear the accounts of those who took part in that sad crisis, and he will see that the Allocution on the 29th April, 1848, was the signal of the war declared against the Pontiff, because in that Allocution he proclaimed himself the common Father of all the Faithful, and refused in that character to sanction the abuse made of his arms and of his flag against a Catholic power."

In that publication, from which we have quoted, the illustrious Count showed how the Papal government had suffered from English intrigues, but truth requires us to say that it suffered more from French and Sardinian machinations.

Ever since the French revolution the Roman States have been subjected to the mischievous effects of French intrigues, and especially during the last ten years, in league with Sardinia, these intrigues have been incessant, and were too successful in 1848.

That there is no real ground for complaining of the Papal Government is shown by the manifesto of Massimo d'Azeglio, now the Sardinian Minister at Rome, put forth in 1845.

"Summary of the reforms demanded by the Marchese Massimo d'Azeglio.

"The right of petition to be accorded. The right of public audience of the sovereign. Abolition of special commissions and the spy system. An improved code. The opening of all offices in the state to laymen. Reform in the customs. Dismissal of a mercenary army. Formation of an Italian force. Disconnection with Austria. Improved system of education. Abandonment of the lottery. Construction of railways. Economical reform. Encouragement of the scientific congress. The expression of opinion. A government to

be conducted in obedience to enlightened opinion, and directed towards accomplishing the independence of Italy."

Under the auspices of Sardinia. That this is the real meaning is shown by the work of Farini. And this is the true key to the import of the whole of their reforms, demanded, observe, by a Sardinian, not a Roman.

However the real meaning is this—the subversion of Papal government and the substitution of Sardinian. It comes to that or nothing. All the rest is "leather or prunella." "Dismissal of a mercenary force." As though the Papal government were to be the only one disentitled to enlist foreigners! As if it might not follow the example of Sardinia! "An Italian force," that is Sardinian; for it is added, "Disconnection with Austria." Free expression of opinion. That is, full license for Sardinian machination. Abolition of the spy (that is of the police) system, designed for their detection and suppression. As if we had no "detective police" and "secret service," and "special commissions," which have always been issued on occasion in England and Ireland. "Right of petition." As if it did not exist already. "Public audience of the sovereign." That is, popular assemblies to overawe him and deprive him of personal liberty, as in the earlier stages of the French and Roman revolutions. "An improved code." As to that we have spoken already. But of the rest is there need to speak? What real substantial grievance is shown? "Scientific congress." Stuff! Who has ever heard of it since? What care the hungry Sardinian government for scientific congresses?

In place of definite statements of grievances we have vague and idle stories such as these. A man charged with murder brings a friar to prove that he was elsewhere at the time, and the friar was afterwards imprisoned. Well, and what of that? Nothing is told us of the truth or falsehood of the friar's testimony. The accused set up an *alibi*, and it failed. The court believed the friar had sworn falsely, and committed him to prison, precisely as an English or Irish judge would have done, precisely as the English and Irish judges do perhaps every assizes, precisely as we have seen them do, and as they are reported to have done several times during the few last months, viz., commit a witness for giving false evidence. It is not as if the evidence on each side, or the substance of it, were given to

us, as in the cases we cite. Mere anonymous odds and ends of stories, scraps and fragments of hearsay, cock-and-bull stories, are given to us, instead of any valid or substantial evidence. Such things suffice, however, to stimulate prejudice and raise a cry, and that is all they are designed for. The whole truth in any of these cases would destroy any ground of complaint. It is only by giving us bits and fragments that any appearance of injustice or grievance is presented.

The Pope gave the Romans a constitution; they repaid him by revolution. The Prime Minister was stabbed at the door of the House of Assembly, who—an assembly of assassins—sat on as though nothing had happened, and sanctioned processions in honour of the accursed deed! The Roman revolution, was it the result of misrule? If so, to grant a constitution is misrule. Could it fail to unsettle the government? Was it not designed to do so? Remember the policy of the first Napoleon “to bring about a democratic revolution as soon as possible,” with a view to pave the way for French despotism. The policy of the uncle is also the policy of the nephew.

“The mind of Louis Napoleon,” said an able writer in the *Times*, Jan. 19, “was early touched with sympathy for the cause of Italian independence. The first conspiracies in which he graduated were Italian conspiracies, and his first enemies were the *sbirri* of Leo XII. and the Austrian police.” And then the talented writer went on to show clearly that the secret aim of the Emperor’s policy is the lust of territorial acquisition. “He held Rome by a French garrison, he threatened Naples by a diplomatic rupture, and the chance of a Muratist conspiracy, and he encouraged and inflamed the ambitious policy of the court of Turin.” In short he did his worst to keep all Italy in a ferment. “In Naples diplomatic relations were suspended under pretence of an humane interest in the fate of political prisoners, which came oddly from a sovereign who had peopled with French citizens the swamps of Cayenne.” And still more has this been so with Sardinia!

The *Sferza*, a Venetian paper, says, “For years Sardinia has conspired against the security and integrity of the other Italian states,” (and of course principally against that which is the chief power of Italy, the Papal sovereignty). “The cabinet, the parliament, and the press, and the refugees, have all contributed to bring about the

present state of things." (Times of Jan.) Then the Times of the 4th Jan. descanted thus on the condition of the Papal States: "During the last ten years the states of the Church have, by all accounts, been going from bad to worse." Meaning, probably, the accounts received *via* Turin. At all events, it is significant that the accounts of Rome should have grown worse precisely during the period when Sardinian intrigues have been most active. The last ten years, too, takes us back to the time of the Roman revolution, when a system of assassination and a reign of terror were inaugurated, which rendered necessary precautionary and repressive measures that continue to this time.

It was under Sardinian inspiration that in the early part of this year appeared a series of attacks on the Government of the Papal States, usually emanating from the *Times* correspondent at *Turin*. One day he wrote thus:

"The measure of reform that would satisfy the Romans is much more feasible, and, in fact, the only real bar to its concession is the opposition of Austria; and it is in the Roman States that France is most desirous to see the demands of the population complied with, at least to the very reasonable extent insisted upon. The Romans of our day are a proud, passionate, determined race, in whose memories still live the great deeds of their supposed ancestors and the fact that their country once ruled the world. They contrast those days of bygone power and glory with their present condition—degraded, misgoverned, the slipper of a priest upon their necks. The bitter reflection weighs upon their hearts till it makes them mad, and they go forth to stab or shoot those to whom they attribute a state of things which they feel that the Pope and his ecclesiastical band could not, unassisted, for a moment maintain."

Well, and what concessions short of the total subversion of the Papal Government would satisfy this rabid animosity? He went on, however, in language evidently borrowed from Farini's book (and we should not wonder if the letters were concocted by Farini, the exile at Turin, under the patronage of Count Cavour).

"I have already, both from Turin and from Rome, written to you on Roman affairs *usque ad nauseam*. But the subject is at this moment so important that I cannot refrain from again glancing at it, even at the risk of repeating in another form the substance of what I have already said. What are the demands of the Romans; or, I should rather say, what are the concessions that would con-

tent them, and very probably preserve, at least for some years to come, the tranquillity of Italy? That those concessions do not comprise any very extreme or ultra-Liberal measures is evident from the fact that they are advocated by the present French Government. Indeed when one comes to examine and sum them up, one is surprised at their moderation. The Romans would have an admixture of laymen in the Papal Cabinet, now entirely occupied by ecclesiastics. They desire that the portfolios of the Home Department, of Finance, of Public Works, and of War should be invariably held by laymen. The Departments of State for Public Instruction might be retained by churchmen, while that of Justice might be held indifferently by a layman or a priest, as merit or circumstances made it appear desirable. They would have the Council of State invariably consulted on new laws, instead of these being submitted to them only, as now, when the Minister thinks fit and desirable. They demand a better organization of the system of finance, and a cessation of that perpetual borrowing which has loaded the country with a debt enormous in proportion to its population and resources. They assert, and with great truth, that a proper development of the resources of the country, the construction of roads and of railroads—to the creation of which constant obstacles have hitherto been opposed by the Papal Government*—would render loans entirely unnecessary. But of such development there is no hope so long as the Government is exclusively in ecclesiastical hands. Much military expenditure could also be lopped off the Roman budget if once content prevailed among the people."

No doubt. But what would content the mal-contented?

"The present constitution of the Consulta of Finance is open to the gravest objections. Its members should be in proportion to the population, and not, as now, by an absurd arrangement one for each province. Other changes should also be made in the mode of election of this Consulta. The members should be chosen by the provincial councils, instead of being selected by the Pope out of four candidates which each provincial council presents; and the Pope should relinquish the right he now enjoys of appointing one-fourth of the members himself, without previous presentation by the councils. Reforms somewhat similar are required in the elections of provincial and communal councils. The members of the former are now selected by the Pope in the following manner:—Every commune or parish sends in a list of three names, and out of these lists the Pope appoints one councillor for each district. But a district consists of several communes, just as a province is divided

* An utter falsehood. The railways are proceeding in the Papal States, and are patronized and promoted by the Pope.

into several districts ; there may be six or eight, or perhaps a dozen, communes in a district,—in which case the Pope, or as we should say, the Crown, has 18, or 24, or 36 candidates to pick and choose out of. One might suppose that a Government would content itself with carrying its influence thus far, but such is not the case. His Holiness condescends even to the communal councils, which he chooses out of a number of names presented by the councils, themselves. The reforms the Romans ask for in respect of these elections of councils do not appear to be very violent or dangerous. They would have the provincial councils elected direct by the municipal councils, and they demand the execution and amendment of the law, now existing but not observed, which enacts that the communal councils should be chosen by the most important classes of the population, such as landholders, manufacturers, capitalists, large farmers, and members of the liberal professions, the number of the electors, however, not to exceed, as the law at present stands, six to each one member to be chosen. This last restriction is that which they would abolish. As far as administration goes, these are the main reforms demanded, with the exception of granting to the *consulta* of finance a deliberative vote (it has at present only a consultative one), and of publishing its proceedings and discussions, now kept secret, in the official journals. Another very important stipulation is also advanced with respect to the provincial councils, and that is that they should be allowed to communicate with each other. It may seem incredible, but is nevertheless true, that such communication is at present prohibited. So that if a province desired to undertake a road, canal, or some other public work, which could only be advantageous by being extended beyond its limits and by concert with its neighbour, the project would be frustrated because such concert is forbidden. Such is the wise and sagacious legislation of the reverend rulers of Rome, who have misgoverned their country until they apparently cannot imagine the possibility of combination for useful purposes apart from conspiracy for political ends."

The hint at the end shows that the writer of the above crafty composition, which is evidently founded on Farini's book, if not written by Farini, is quite aware, although he affects to be quite ignorant of the danger which would result from such a system as he proposes. In substance it is the same as proposed by the Revolutionists in 1845 ; for it would come to this : that the finance, i. e. the whole Government, would be in the hands of popular representatives ; the *Consulta* of Finance being the mainstay of the Government. The fact however is that actual experience has shown what it would lead to. It has been tried. It resulted in revolution and the subversion of the

Pontifical Government. That is what the malcontents are aiming at. It is mere hypocrisy to pretend otherwise. The principles, and the publications, and the past acts and manifestoes of the malcontents tend to that and nothing short of that.

The manifesto of 1845 claimed the entire exclusion of ecclesiastics from Papal rule. And the dream of Balbo and Farini, and the rest of the Sardinian faction, has always been and is, the substitution of the Sardinian sovereignty in Romagna for the Pontifical, leaving to the Pope a nominal spiritual supremacy. We say nominal, for what else could it be, if the Pontiff should become a mere dependent upon the Sovereign of Piedmont?

It is idle to say that the English have representative institutions, and that they do not lead to revolution. The answer is that the Romans have had them, and that it has led to revolution. The Americans have a larger measure of political power than we have, and the other day the *Times* argued ably that it did not follow that because it suited them it would suit us. So the lesser measure, though it suits us would not suit the Italians. And that the extension of the municipal system is demanded for political purposes no one surely will deny.

What do the malcontents care about municipal institutions except for political purposes? Can any one aware of the existence of the secret societies in Italy doubt that they would use the municipal institutions for their purposes? And then as to political power, we have not yet settled in this country how large a share of it we can safely trust our own people with, and ministries are being thrown out upon the question whether the mass of the people are to have any. A witty member, Mr. Drummond, spoke thus in the debate:

"He did not understand what the present Reform Bill was to do. He could not understand what was its object, or the manner in which that object was to be attained. The last Bill was an act of vengeance by the Whigs on the party that had kept them so long out of power. To attain this end they deceived their master, and they undermined the throne. They coerced the House of Lords, and threatened that if they could not carry their Bill by any other means they would do so by insurrection, and by a resort to blood and battle. They succeeded, and they had some merit in success. All that he understood, but he confessed he did not understand why they were to have this new Reform Bill from the Government. He

quite understood the hon. gentleman opposite (Mr. Bright). He was perfectly honest and fair in what he was doing. He (Mr. Drummond) knew what he was at, and what he aimed at, but he repeated he could not understand about this Bill, or how to meet it. It was said everybody wanted reform, but then came the question what was meant by reform. In reality reform meant to take taxation off yourself and put it on somebody else. That was, no doubt, the meaning of the Bill of the hon. gentleman opposite, though he would not enter into the discussion of that measure till he introduced it. The ultra-liberals, the gentlemen who were further advanced than other people in the way of progress—how far down he did not know—thought fit to meet together in committee-room No. 17, and took it into their heads that there should be reform; then they agreed to ask the hon. member opposite (Mr. Bright) to bring forward a Bill, as, indeed, he was the only man who had honesty and ability enough to carry out such a measure. But everybody knew well enough what it all meant. It mattered little what was the extension of the franchise that might be proposed. After the first Reform Bill was announced, he (Mr. Drummond) said there was no principle in 10*l.* any more than in 9*l.* or 8*l.* for the truth was, that, once begun, they could not stop short of universal suffrage. How would they stop short? It did not at all follow that it was revolutionary. That which was really revolutionary was to put political power into the hands of men who had no property themselves, but who would take upon them to dispose of the property of those who had. The settlement of this point was the great problem to be solved, but it was not solved by the honorable gentleman opposite, nor was it solved by the Bill which had been brought before them that night. If they preserved political power in the hands of those who had property, then they might amend the franchise as far as they pleased."

That is all very well for people who have property. But for those who have not? How is the question to be settled for them? Had we not better settle it just for ourselves before we settle it for Rome? The truth is that it is only a comparatively small portion of the Romans who care for political power, and they only for the sake of subverting the Papal government. The mass of the people are loyal. If it be said why do the Roman people rebel against the Pope? the question may be answered by the following fragment of a dialogue given by the Times correspondent in India, as having occurred between himself and an old Sepoy. He praised the Company's rule. I said, why, then, did you revolt? He answered, that it was the bad. I said, why did the good follow the bad? He answered, because ten bad men being violent carry the weak along

with them, and the good are trodden down. A similar answer might be furnished by a reference to France at the Revolution. But a better answer still is afforded in an able Letter just published by Lord Monck, in reply to a requisition for new measures of coercion in Ireland.

"There is in almost all countries a portion of the people which, either from natural temperament or other causes, is disaffected to the Government and desirous of change; and that such a class—rapidly, however, diminishing both in numbers and in moral and intellectual weight—exists in Ireland no one can deny. The power of that class in Ireland was tried in 1848, under circumstances most favourable to its development, and the events of that year, as it appears to me, justify Irish politicians in excluding Irish rebellion from the category of possible events."

Just so in Italy. Twenty years ago an intelligent Protestant writer upon Italy testified that the real object of the malcontents was a republic. And since then the Revolution of 1848 has abundantly verified the statement.

All the complaints made of the Papal Government resolve themselves, when rigidly sifted, into dislike of any Papal Government, and of Ecclesiastical rule in general; not on account of any proved incapacity or inefficiency, but on account of prejudice against ecclesiastical rule, as being ecclesiastical. All other charges are vague and idle, or are notoriously false. Thus, this session, Lord John Russell spoke as follows:

"With regard to Central Italy, of which the right hon. gentleman has spoken, be it observed that it is the interferences of Austria which have excited the jealousy of France. Accordingly, in the early part of Louis Philippe's reign a French force was sent to Ancona to counterbalance the interference of Austria in other parts of Italy. Again, in 1848, Austrian troops interfered with the Government of the Legations, and a French division was immediately sent to Rome, and captured Rome, and according to the statement of almost every official person in this country then representing France, it was done entirely because France did not choose Austria to have the entire command and dominion over Italy. But the jealousies of those two great Powers have resulted in misery to the unfortunate people over whom that military force has imposed a government which is most distasteful to them. For, be it observed, the Emperor of the French, not wishing to impose bad government, wrote himself a letter in which he pointed out what might improve the condition of the Roman people,—the introduction of the Code Napoleon, secular administration, and other provisions. But that

advice was not taken. The Austrian Government is in many respects a very enlightened Government ; but it is not the Austrian Government at Bologna and Ancona, but it is the Austrian forces and the French forces which impose upon that country about the very worst form of government that any country ever had. Those who doubt this may consult various works describing what has been the case with the Papal Government. Among others there is one very interesting and amusing work by the present Attorney-General for Ireland. He travelled in Italy, and he is not content with a superficial view, but he gives you parts of the code of the Roman State, and he points out how inconsistent those provisions are with anything like justice and freedom. I have heard myself the way in which every attempt at improvement is frustrated. They said at one time, ' Let us have a secular government, and let the ecclesiastical officers be replaced by secular officers.' Well, secular officers were sent to them, but they were men so ill calculated to create confidence, and so entirely without character, that the poor people said, ' Let us have the priests back again, or let us have a cardinal, or anything in preference to these people.' Thereupon it was argued that they were not in favour of a secular Government. In the same way it was said that the people did not want municipal institutions. Before the French Revolution there were municipal institutions. The people very much governed themselves. The French destroyed all these municipal institutions, but they put in their place a good administration of justice, and what is called an enlightened despotism. Since 1852 they have neither municipal institutions nor an enlightened despotism. They have every kind of corruption and oppression. If persons are required to pay allegiance they should receive protection from the Government, and in what respect is protection more required than in the administration of justice ? It is one of the first objects of government that there should be justice between man and man ; that criminal justice should be fairly administered ; that civil justice should be had without corruption ; but I happened to be reading, I think last night, a description of the Roman Government by a noble friend of mine, a member of the other House of Parliament, Lord Broughton, and, as his description is contained in a very few words, perhaps the House will allow me to read it. This is his description of a Government, let it be recollected, that for the last ten years has been carried on by the aid of foreign forces. Lord Broughton says :—

" If under this theocracy there were a tolerably impartial administration of justice—if the lives, persons, and properties of the citizens were secured by any contrivance, it would be no great hardship to submit to the anomaly of receiving laws from the altar, instead of the throne. But the reverse is notoriously the case, and there is scarcely a single principle of wise regulation acted upon or recognized in the Papal States.

"The first principles of criminal jurisprudence seem as much forgotten or unknown as if the French code had never been the law of the land; a secret process, a trial by one judge and a sentence by another, protracted imprisonment, disproportioned judgments, deferred and disgusting punishments, all tend to defeat the ends of justice and to create a sympathy with the culprit rather than a reverence for the law.

"I read two years ago in this house a statement, on good authority, that the confessions of several persons accused of crimes could not be taken, because they were confessions made under torture. This is the usual administration of justice."

The last statement is upon the face of it false, and refutes itself. If torture is usual how came the confessions to be rejected? The truth is, there is no more torture in the Papal States than in England; and that the noble lord knows full well. There is as much truth in the statement as in Lord Broughton's unintelligible phrase about deferred and disgusting punishments. Is our "penal servitude" agreeable? Can it be that Lord John was descending to an equivocation founded upon Mr. Whiteside's phrase, "mental torture by interrogation of the accused," which is practised in Scotland and France, and of which we have spoken already? Passing by that, let the reader carefully note if there is anything specific in the above statement, or anything to be gathered from it but a dislike of the Ecclesiastical Government as such, and simply because it is ecclesiastical? But we have already adverted to this passage in our notice of Lord Broughton's work; we contrast it with what is found in a very popular work, Murray's *Hand-book*. He thus describes the Roman States:—

"We know nothing more delightful than the unaffected hospitality which the stranger meets with in the smaller towns, or the security felt among the open-hearted people. *We have explored the least known and least frequented districts—have traversed the mountains unprotected, and have dwelt among their most remote villages for days together, with a sense of security which we have never had occasion to regret.*"*

Lord Broughton's admission, however, is a large one, and we claim the benefit of it. "If there were a tolerably impartial administration of justice—if the lives, persons, and

* Murray's *Hand-book*, Introduction.

properties of the citizens were secured by any contrivance, it would be no great hardship to receive laws from the altar!" Well, we appeal to any one who has ever lived in the Papal States, whether there is not a tolerably impartial administration of justice, and whether the lives, persons, and properties of the subjects, are not secured, at least except against the dagger of the assassin, against which no law can guard. In the work of Farini, there is no fact stated whence it can be inferred that there is not an impartial administration of justice, and that the persons and property of citizens are not protected.

What does Lord Broughton mean by the "first principles of criminal jurisprudence being unknown or forgotten?" We have already dealt with that subject, and shown that in some respects, the Roman law deals more tenderly with the accused than ours. What does Lord Broughton mean by "disproportionate sentences?" That is a kind of charge only to be supported by a careful comparison of cases.

We have seen that the manifesto against the Papal Government, makes it matter of complaint that the penalties on crimes were regulated by their moral turpitude. It cannot be said that in this country they always are so, and, in this respect, we repeat, England has still much to learn from Rome. Any one who reads the reports of our criminal cases, must be struck at the painful disparity between the punishments allotted to different offences. Very often this is so apparent that it excites the popular feeling, and produces complaints either by the press or other public modes of manifestation. Celestine Somner, the most ruthless murderess of her own daughter, was relieved, for what reason no one could tell, and Lord St. Leonard asked in vain. And that is only one out of a host of such cases. The case of the poor woman, Mary Newell, is still pending.

"A feeling of very general sympathy has been evinced in Reading for this unfortunate young woman, who was tried and sentenced to death at the Berkshire assizes, for the murder of her child, by throwing it into the river Thames, near Caversham Mill, in consequence of the heartless conduct of her seducer. Immediately after the trial, a memorial to the Queen, praying for a commutation of the sentence, was prepared, and in a few hours it received a large number of signatures: among them are those of the mayor of Reading, borough and county magistrates, town councillors, clergymen, and members of

the medical and legal professions. The father of the child is a poulterer in the town, and, on the evening of the murder, the unfortunate young woman took the child to his shop: he coolly told her he could do nothing for her, as he was 'keeping company with some one else,' and went out of the shop, leaving her. The woman went away, maddened by his brutal conduct, and it was admitted that she threw the child into the river; her counsel contending that she was under such excitement as to render her irresponsible for her actions."

The jury, however, under the direction of the judges, brought it in murder.

"The official announcement in the *Times* that the execution of the sentence of death, passed upon this unhappy woman, had been respited, gave intense satisfaction to the inhabitants of this town, who had taken great interest in the case since her conviction, feeling that the crime for which she was doomed to forfeit her life, resulted from the callous and remorseless conduct of her seducer. The chairman of the visiting magistrates of Reading gaol, most laudably interested himself on behalf of the convict, and forwarded a letter to the Secretary of State for the Home Department immediately after the trial, urging many powerful reasons in favour of the sentence being commuted."

The Secretary of State for the Home Department, under the circumstances, felt warranted in advising Her Majesty to commute the convict's sentence to *penal servitude for life*. But the poor woman had become insane. The medical attendant wrote:

"She was admitted into an asylum, by order of the Secretary of State, in a fearful state of maniacal delirium, produced, as one might naturally infer, by the mental agony she endured both before and after her conviction. She was brought there by three officials of Reading Gaol, well secured in a strait waistcoat; this mechanical restraint having been at once removed, she was put to bed, and the most active measures for the relief of her brain were immediately resorted to. For some days she continued in a very violent state, and only the faintest hopes could be entertained of her surviving the shock. Improvement, however, commenced about the sixth day after her admission; she became more tranquil, natural sleep succeeded, and daily improvement was established."

So wrote the Doctor: earnestly urging a further commutation, which has not taken place.

But savage homicides have comparative impunity. We have, on a former occasion, drawn attention to the subject, and shown the comparative leniency with which our law

visits offences against the person, as compared with offences against property. Take two cases lately tried before two of our ablest Judges,—we quote the *Times*.

“Ann Tulloch, and Matthew Wilson, were indicted for the manslaughter of Joseph Scott, at Newcastle. The deceased, accompanied by some men, went to the house of the female prisoner, in Newcastle, about half-past 2 in the morning. The men ordered beer; the female prisoner made use of some bad language, and wanted 5s. for a bottle of whiskey. The money was not given to her, and at this time the prisoner Wilson went out of the room. Mrs. Tulloch and the deceased were then talking together, and she was seen to give him a blow on the nose. Scott got into a passion at this, and on Tulloch rather rushing towards him, he struck at her and hit her on the eyes. Tulloch then got into a great passion, and swore she would murder the—before he left the house. At this time Scott was very drunk. The other prisoner, Wilson, then entered the room, and Mrs. Tulloch pointed to her eyes and said, ‘see what he has done to my eye.’ Wilson then immediately struck at Scott several blows in the passage near the taproom, in which the female prisoner was. She cried out, ‘Push the—into the room.’ Wilson then pushed Scott into the room, and continued striking him and driving him into a corner, when Tulloch seized hold of a quart glass decanter and struck him a blow on the back of his head with it. She repeated the blow, and it fell on Scott’s hand, which he had raised to protect his head. On removing his hand the female prisoner gave him a third heavy blow on the head with the glass decanter. Blood flowed, and the deceased fell on his face on the seat. One of the witnesses present cried out that they had murdered him. Wilson then pulled him off his seat, and he fell with his face in the blood on the floor. The female prisoner then seized him by the hair of his head, and lifting him from the blood gave him a kick in the side, saying, ‘Is the — not dead yet?’ The police shortly after entered the house, took the prisoners into custody, and removed the deceased. The policeman said it was a bad job, and the female prisoner produced a decanter, and said, ‘She did not care a —, she would kill a better man than him,’ and Wilson, the other prisoner, said, ‘It served him right; look at her eye.’ The deceased was found insensible, with a deep wound at the back of his head about an inch long, which bled profusely. He died about a week after, and a *postmortem* examination discovered his skull to have several fractures running from two centres.

“The jury found the female prisoner *Guilty* and *Acquitted* the man.

“His Lordship, in passing sentence, said the provocation the prisoner had received was very great; but he could not overlook the brutal manner in which she had assaulted the deceased. He

should not inflict so severe a punishment on her as he would have done on a man under the same circumstances, and he thought justice would be satisfied by her being sentenced to 12 months' imprisonment with hard labour."

One years' imprisonment for a horrible homicide! The same sentence is constantly inflicted for petty offences against property. We blame not the judges. The spirit of the English law is marked by greater tenderness for property than for life or blood. Foreign jurists have observed it. And may they not retort upon England the charge of "disproportioned sentences?"

"William Hinner was charged with the manslaughter of his wife. There was also another indictment against him for assaulting his wife and thereby causing her bodily harm.

"The prisoner, it appeared, had been married to the unfortunate deceased for 20 years, and she had borne him 14 children, and there could be no doubt that for some time past he had treated her very brutally, and during her last confinement, he had behaved towards her in the most violent manner, threatened to strike her, and deprive her of fire and the other comforts she required.

"A son of the prisoner stated, that about three months before his mother was confined with her last child, he was awoke one night by hearing his mother call for assistance, and upon going into the bed-room, he found his father in a very violent and excited state, and he dragged his mother out of bed by her hair.

"A neighbour of the prisoner who, it appeared, kept a beer-shop at Lee, deposed that he had seen him drive his wife out of the house without either bonnet or shawl, at 12 o'clock at night, and he at the same time made use of violent and disgusting language to her. Upon another occasion he saw him dragging the deceased along by her hair, and striking her with his fists. The police were applied to, but they refused to interfere because they had not seen any blow struck.

"The Recorder had alluded to it in his charge to the grand jury, and in all probability the poor woman's life would have been saved if the police had interfered when they were requested to do so.

"The midwife who attended the deceased during her three last confinements, stated that on every occasion the prisoner behaved in a most violent manner to his wife. He compelled her to get out of bed when she was not in a fit state, and upon one occasion the deceased told her that her head was very bad in consequence.

"Baron Bramwell, in passing sentence, told the prisoner that although the charge of manslaughter could not be supported, he had evidently been guilty of great brutality towards this unfortunate woman. He should not allow the fact of her death to operate

upon his mind in the judgment he was about to pronounce, but should merely pass such a sentence as would be calculated to deter others from the commission of similar acts, and that was that he should be imprisoned and kept to hard labour for one year.

Take another case, before Mr. Justice Crompton.

"William Hollis was charged with wounding Martha Hollis, his wife, with intent to murder her, and also with intent to do her some grievous bodily harm.

"He came home, and found his wife with her pots upon the fire, and about to wash, and he took the pots off the fire, and, having thrown the water about the room, went out. The wife, being afraid that he would return, locked the door. The prisoner then went to his workshop, and came back with a hammer, and tried to get in at the door, but failing in that, he made an entrance by the pantry window, and then struck his wife with great violence upon the head with the hammer. The poor woman was stunned by the blow, and her skull was fractured in two places, and for some time her life was despaired of. Her dying declaration was taken, but, fortunately for the prisoner, she had since recovered.

"The jury found the prisoner guilty of wounding with intent to do grievous bodily harm.

"His Lordship, in passing sentence, said it was fortunate for the prisoner that his wife had recovered, for, if she had died, he would certainly have been left for execution. As it was, the sentence was four years' penal servitude."

A sentence four times as severe as in the foregoing cases, but not more than poachers constantly receive: just as much as Smith received for a deliberate endeavour to murder—while at the same assizes a man had ten years for forging a bond. What disparity of sentences!

No country is less entitled than ours to reproach other nations with defects or vices of criminal jurisprudence; our own is not very effective in repressing crime, as a glance at the papers will show. The other day a woman was convicted, and it appeared that she had been transported for seven years, the greater part of which term she served, and had served out a sentence of four years' penal servitude. Other convictions were put in evidence.

"The Assistant-Judge said, after the warnings the prisoner had had, it would be *useless to sentence her to imprisonment or to penal servitude for any short period.* The sentence upon her, therefore, was ten years' penal servitude."

Soon after a youth of twenty was indicted for a robbery with violence, and stealing 2d. The prisoner made no

defence, and the jury found him guilty. He had been previously convicted, and was well known to the police as an associate of desperate thieves.

"The Assistant-Judge said it was impossible to allow a delinquent guilty of such a desperate outrage on the public highway, and with such a character as the prisoner bore, to infest civilized society, and the Court, in the discharge of its duty, with a view to the safety of the public passing along the streets, must pass upon him a sentence that would remove him for some considerable time from the scene of his operations, and at the same time be a warning to others. It was a robbery committed under circumstances of the grossest brutality upon a lone woman in the street at night. It was a mere accident that he only robbed her of twopence; it might have been much more. He had been convicted before; he was the companion of persons as lawless and desperate as himself. The sentence upon him was that he be kept in penal servitude ten years. —The prisoner, Thank you. *Ten years for twopence.*"

Another youth of twenty, convicted of feloniously breaking and entering a shop, and stealing therein two watches, was brought up for judgment, and sentenced to three years' penal servitude.

At the assizes for Reading, before Mr. Justice Crompton, a labourer was charged with setting fire to a rick of barley.

"The prisoner handed in a well-written defence. This was read by the officer of the court, and showed a considerable knowledge of criminal jurisprudence. He chiefly relied for his defence on the entire absence of motive for the commission of the crime.

"The jury found the prisoner *Guilty*, and a previous conviction was found against him for setting hay on fire in 1851, when he was sentenced to seven years' transportation.

"The prisoner then said, that now he was found guilty he admitted he was guilty, and added, that if Her Majesty had sent him out of the country when he was convicted before, he might now have been as respectable a man as the prosecutor. He said he did not wish for mercy, and that he had set fire to the rick in order that he might be sent out of the country.

"Mr. Justice Crompton said, prisoners were not tried and convicted of offences to be sent out of the country as honest emigrants, and the prisoner would find that the sentence he was about to inflict was not a light one. His Lordship then sentenced the prisoner to eight years' penal servitude."

A very respectable-looking young man pleaded guilty at Hertford to no less than four indictments charging him with stealing horses.

"The counsel, who appeared for the prisoner, said he had pleaded guilty by his advice, as it was impossible to offer any answer to the charges against him. He was, however, instructed to state that the whole of the offences were committed *within a period of six weeks*, and that down to the period when the first horse was stolen, the prisoner *filled a respectable position*, and never had the slightest imputation cast upon his honesty. He also said he should be able to show that during the period the prisoner had been in the gaol he had behaved in a most exemplary manner, and he proposed to call the governor of the gaol to speak to that fact.

"Mr. Baron Martin said it was rather a novel proceeding to him to call the governor of a gaol to speak to the character of a prisoner, but the learned counsel might take his own course.

"Mr. Hatchard, the governor of Hertford gaol, was then sworn, and he stated that the prisoner had behaved exceedingly well during the period he had been in his custody, and he had willingly and readily conformed to the regulations of the prison.

"Mr. Baron Martin, in passing sentence, said it appeared that the prisoner had stolen four horses within a very short period, and that he sold them immediately afterwards and got the money. The governor of the gaol had been called to prove that he had conformed to the regulations of the prison since he had been in confinement, but he imagined that every prisoner would be compelled to do this whether he was willing or not, and it did not appear to him to affect the case in the slightest manner. It was a very bad offence, and he felt it his duty to order the prisoner to be kept in penal servitude for *six years*."

Again, we read that a man was charged with feloniously entering the dwelling-house of Lady Gooch, Charles Street, Berkeley Square, and stealing a quantity of property.

"The case for the prosecution being completed, a superannuated sergeant of Metropolitan police, gave evidence that the prisoner was a ticket-of-leave man, his real name was Botwright, but he had him in custody for a burglary at Brompton in the name of George Clark, for which offence he was convicted on the 10th of November, 1851, and sentenced to fourteen years' transportation. He was, however, discharged from Portsmouth (Stirling Castle) under what is termed a 'license,' dated October 27, 1857, the number of which is 7,372. The witness added that the prisoner had been eight or nine times convicted, and formerly and now was connected with a dangerous gang of thieves and housebreakers. The prisoner was committed for trial."

Again committed for trial, to put the country to more expense, as to which we read that the cost of the people

detained in Newgate awaiting their trial, amounts to the sum of 100*l.* a year for each.

"In the report of the city expenditure for 1857, p. 24, will be found most of the items, the grand total of which is a yearly cost of 10,600*l.*, which divided by 106, the average number of persons detained, makes a sum of 100*l.* as the cost of each, paid for out of the pockets of the industrious ratepayers. For this choice little parish, of a few thousand square yards, the chaplain is paid, as formerly stated, 500*l.* a-year, nearly 5*l.* each soul; the doctor, 190*l.*, or 1*l.* 15*s.* 10*d.* for each body; and the governor, Mr. Weatherhead, 400*l.*, or nearly 4*l.* each, for taking care of them, assisted by a staff of persons, whose united salaries amount to 1,900*l.* Nice thing to be a thief in England! On these 106 rogues is expended a sum of money equal to the whole income of 352 country labourers, at 30*l.*—a large estimate, if the statements be correct, of the poor persons who, living in Wiltshire and Suffolk, tell their own tale in the Times. Now, if we reckon the families of these as of four persons only, it will be found that the 106 persons in Newgate consume an amount of treasure yearly equal to that of 1,408 honest people. Thus, one thief costs as much nearly as five good men, women, and children. This corruption is enough to destroy the wealth and vigorous virtue of the greatest nation on the earth."—*City Press.*

Our readers will perceive that the principle which we have adopted in this article is to meet the charges against the Roman government, by contrasting them with the actual working of our own much-lauded systems. In so doing we are of necessity desultory in our illustrations: and as we find that our materials greatly exceed the limits which, on this occasion are at our disposal, we shall at once break off with the intention of resuming the subject in the July Number of this Journal.

ART. X.—*Memoirs of the Court of George IV.*, 1820—1830. From original family documents, by the Duke of Buckingham and Chandos, K.G. 2 vols. London: Hurst and Blackett, 1852.

THE title of these volumes is clearly a misnomer, so far as it purports to contain the "*Memoirs of the Court*;" its title should have been restricted to "*original family documents*;" and it is as such that the volume is of very considerable interest and value. Our readers are doubtless aware that the publication of these family documents is charged by the son of Mr. Charles Wynne, to whom they, to a very great extent, relate, to have taken place by the editor in direct breach of a written undertaking given by the preceding Duke, his father, to whom the letters were addressed. This charge, so far as we are aware, has been allowed to remain uncontradicted; and so far as we can judge from the contents of the letters themselves, nothing can be more probable than that Mr. Wynne should have asked, and that the late Duke (a man of high character, though of slender abilities) should have given an undertaking that their private and confidential correspondence should never see the light. We had intended to have included in our present notice of this correspondence a brief exposition of the law in relation to the question of the unauthorized publication of private correspondence; but our limits prevent our so doing, and the more so, as it is only necessary to refer such of our readers as wish for information on the subject, to the ordinary treatises on the law of "*injunction*," and to a recent decision of the Court of Chancery in reference to certain letters connected with Lord Cardigan. It is, however, well for the public, to understand the limited right which the receiver of a letter has in its contents; and that such a publication as that in question, without the special authorization of the writer or his representatives, is as deficient in legal as we believe it to be in moral propriety. We believe that the son of Mr. Charles Wynne might have prevented this publication by the strong hand of the law if he had thought fit to do so. But "*fieri non debet, factum valet*," and the public is in possession of a mass of evidence which doubtless throws very considerable, but, we regret to say, in many respects, melancholy and scandalous light upon the working of

public affairs and the domestic annals of King George IV. These documents have (*per fas aut nefas*) become public property; and as such must become the subject of public comment; and, however it is to be regretted, the public will draw inferences which many friends of monarchy and constitutional government must see deep reason to deplore. In truth, we are so far attached to the monarchical form of government as to have always felt a sort of shame at those revelations which (however necessary to historical truth) grate painfully on those who would wish to feel increasing respect for the institution. So that to our personal feelings, nothing can be more distasteful than such publications as the Lectures of Mr. Thackeray on the Series of Georges, and Mr. Carlyle's Frederick, and we regret to add the present publication. These Volumes contain innumerable and confidential references to the intercourse between the king and Lady Conyngham, and of these we shall transcribe some few specimens. For example:—"He" (the king) "has never been out of Carlton House. Lady C—— goes to him of an evening, and he has had his usual dinners of Sir Carnaby Haggerston, Forester, and two or three of this description. His language is only about the coronation and Lady C——, very little of the state of the country." (vol. i. p. 20.) To the words Lady C—— are appended an editorial note, to explain who is the lady referred to. We may here observe on the very great inconvenience of inserting initials only which constantly occurs in this work, but in a way not to conceal, but to embarrass and give trouble to the reader and break the narrative; for wherever anything in the slightest degree scandalous or "spicey" is to be found, it is certain that the reader will not be at more than a moment's loss to discover the parties who are referred to. Again: (vol. i. p. 51.) "He grows daily more unpopular, and is the only individual in the kingdom insensible to it. He sees Lady C—— daily, and had a part of his family at dinner this week, she the only exception." It was in this state of his domestic affairs that Lord Conyngham condescended to accept a peerage at the hands of the Royal "Lover," (see p. 180.) and still more extraordinary, to undertake the duties of Lord Chamberlain, (vol. i. p. 83.) so as to be the constant spectator of the royal proceedings. Vol. i. p. 59, contains the following: "The k——'s party consists of very few; the principal object of course the Lady C——, who is here.

They ride every day, or go on the water, or drive in a barouche; the k—— and her always together, separated from the rest, and in the evening sitting alone apart...and among the guests present was Lord C——." (p. 83.) The following is a description of his Majesty's personal habits. "When he had dined (professing to have no appetite,) he ate as much as would serve me for three days, of fish, but no meat, together with a bottle of strong punch." The influence of the Lady is exhibited, (i. p. 168, 169, 177.) "Lady Conyngham is the great link upon which this" (a proposed change of ministry,) "hangs, and the opposition ladies are courting her to a degree, and with success." "If the king dared turn them out he would; that is, he would submit to the influence of Lady C—— in so doing." (p. 178.) "Her sole object was patronage, and patronage alone; that she mingled in everything she could, and it was entirely owing to the necessary interference of the government on one or two points, and the offence given by Lady Castlereagh, in not inviting her, that her present animosity to the government proceeded, and the consequent difficulties with the king." Many more passages to the like effect we had marked for quotation, but we will confine ourselves to one only to justify the phrase we have used above on no less an authority than that of Mr. Thomas Grenville, (ib. p. 180.) "My expectation is, that more or less immediately the influence of the Lady will effect the change that she is supposed to be working for, more especially as I believe her *Lover's* vanity would rather be flattered by the ostentation of displaying her power and influence on this subject in spite of the manifest impropriety of her appearing in public affairs, and the hazard which might attend such a manifestation in times like the present, and with the jealousy which the public mind has already shown upon these topics." (See also pp. 194, 196, 265, 354, and particularly p. 200.) In p. 209 is the following strange passage: "Lady C—— seems to hazard a good deal in letting her husband and two sons perform the part of deputy guardian angels while she remains behind, especially if Lord Londonderry be in favour again, since he may contrive to bring some rival charmer to view." In pp. 337-8 the reader will find the history of a strange contest between Lady Conyngham and the Duchess of Richmond; the two ladies respectively setting up as rival patrons of the "Irish Ball," the King and the Duke of York. The "Lady"

thoroughly defeated the Duchess. Her supremacy, however, was seriously threatened, if we are to trust to the following; of Lady C——, (ii. p. 44.) “it is very generally reported that Lady L—— is said to be the successor.”

In parting with this odious topic, we cannot but congratulate ourselves and our fellow countrymen on the contrast which these volumes present to the state of the Royal Household, which has all but uniformly clung to the present Reign, commanding the universal respect of the nation, and strengthening immensely the ties of affection to monarchical rule.

The above extracts will suffice to show the character of these Letters; but in regard to their general interest, and the important topics to which they relate, it will be well to inform the reader that they contain Letters of the King, the Duke of Clarence, (William IV.) the Duke of Gloucester, the Duke of Wellington, the Marquis Wellesley, Lord Plunkett, the Viscompte de Chabot, Mr. Plummer Ward, and others who did not form part of the family circle. Those of Mr. P. Ward will be found particularly interesting; but the substance of the work consists of the letters addressed to the Chief by the Family Clan, Lord Grenville, Thomas Grenville, Charles Wynne, and above all, Mr. W. H. Freemantle, with some few letters of Dr. Joseph Phillimore. Nothing can more surprise one in perusing this correspondence than the tone of “clanship” which pervades the whole, and the notions of his own self-importance which the “chief” was inspired to entertain, and which (i. 367, and ii. 10.) occasionally led him into somewhat false positions. This small party were so placed as to be supposed to be able to turn the scale between the two political parties, with each of whom they felt their way. (i. p. 173.) The “Iron Duke” seems to have had the duty of bringing about the conquest, and much must he have disliked the task if we are to judge by his manifest contempt for all but the votes of the party. The bargain, however, was made, and for this small support they squeezed out of the Government, (1) for the Chief a Dukedom, with special limitation of his Earldom in favour of his daughters failing male issue, (2) a place in the Cabinet (no less than the Indian patronage,) for Charles Wynne, (3) two places at a Board, no matter what, for Freemantle and Phillimore, and (4) according to the Duke’s version, a

right to a second seat for the Duke himself in the Cabinet if he should condescend to take it.

We cannot forbear to quote the business-like mode in which the Doctor's part of the matter is arranged. (i. 253.) "Dr. Phillimore to the Marquis of B." "I may perfectly well hold one of the Commissionerships of the Board of Control, and continue the exercise of my profession; if this be so, and you see no objection, it really seems to me that if they refuse to turn out the King's Advocate, it would be most desirable that you press my going with Wynne to the Board of Controul, upon the understanding, that, upon the death of Lord Stowell, I should succeed him as Judge of the Admiralty.....It must, however, be understood that I am not to be a Privy Councillor, as that would prevent my arguing causes before the Privy Council." And to avoid any mistake, the Doctor reduces the proposal into more specific language, and stipulates that he is to be Commissioner, &c., "with a salary." The Commissionership, without the Right Honourablesip, accordingly he obtained; but, unhappily, the government would not "turn out" the Queen's Advocate, (could they have done so by law?) and when Lord Stowell died, the Doctor did not succeed to his high office; but nevertheless, we think he got a sufficient *quid pro quo* in the salary, without duties, which he contrived to hold for many years, during which he continued to practise his profession. It need scarcely be said that this party never succeeded in obtaining any considerable position, and appear to have conciliated neither of the Premiers, Lord Liverpool, and Mr. Canning. The former, indeed, (I. p. 272, 381, 395, 398, 494,) seems to have treated poor Mr. Wynne with marked contempt; such as surprises one on the part of so amiable a man; and Mr. Canning did his best to get rid of Wynne (I. p. 381.) by cajoling him into giving up the Governor Generalship of India (to which he had an eye, but he was unable to manage the Directors) and to accept the Speakership, of which there seemed a probable chance which was marred (as our older readers may remember) by the unhappily jingle of "Speaker" and "Squeaker." Many of us can recollect the "squeaking" voice of the President of the Board of Controul, and its contrast to the "bubble" and "splutter" of his Chief, Sir Watkin; but possibly they may not remember the lines attributed to Canning,

and which we are not unwilling to recall by way of setoff against the Doctor's Letter, which we have quoted above.

"There's a difference between
Old Phillimore and Wynne,
And I'll tell you the reason why ;
Old Wynne is a bore
And so is Phillimore;
But then he don't spit in your eye."

Our readers will have collected, that whatever its defects may be, this correspondence is full of entertainment, and in many respects, of very important political information; for example, how pregnant is the following (II. p. 171., C. Wynne, to the D. of B., Dec. 1, 1824) "Liverpool talked to me for some time to-day on the subject of Ireland. He said he could but look to two ways in which the question was to be settled finally, either to give up the Church to the Catholics, or that the dispersion of the Bible should convert the population." Would that modern Premiers would hold this doctrine; and we believe none would be found credulous enough to believe in or rely upon the second alternative. We have said enough to induce all who delight (as we do especially) in genuine letters to make themselves masters of this publication. But we must confine our approval to the original documents, for, we are bound to say, that the office of editor was never less efficiently performed; there being a total absence of anything like editorial diligence or illustration; and the text which connects the correspondence, being of the most meagre and jejune description. How differently would the duty have been performed if these important papers had had the luck to find such an editor as Mr. Ross, of whose excellence we have elsewhere had the pleasure to state our opinion.

Among the most interesting of the Letters are those of Mr. Plummer Ward, the celebrated author of "Tremaine." The following are specimens.

"Meanwhile, as all is packed up for the present, the Duke has been to amuse himself at Mrs. Arbuthnot's, and from Mrs. Arbuthnot's to Lady Jersey's, keeping both ladies, and, what is more, both gentlemen, in good humour. He has been cruelly ill, however, and alarmed every body with his looks, denoting what is the fact, a total want of power to sleep, from nights perpetually feverish. He is a little better, but still not well, while Lord Liverpool

is far better than he has been for very many months. Whether his, and the Chancellor's retirement after next Session (which ministers themselves now expect) added to Gifford's total inefficiency in politics will make any difference, your Grace can better tell than I; but it should seem that an Ultra Government could not stand in the House of Commons. I have been sometimes asked if I knew how your Grace was disposed, which of course I should not have presumed to answer, even had I known, had the question proceeded from quarters of sufficient consequence, or in such a shape as to make an answer necessary."—Vol. ii. p. 120.

"Lord Prudhoe is just returned from Sweden, and favoured me with a visit, which I mention, because he says it is a pretty well received opinion there, that there will be a revolution soon in a *quiet way*. The King is utterly without consequence or personal interest. Nobody, not even the meanest, notices him whenever he appears, and he seems powerless even with the soldiery. There is a considerable feeling for the exiled family, and some for Prince Oscar; but all agree as to the nullity of Bernadotte! All, however, depends upon Russia; and to judge of the manner and language of that Embassy, Lord P—— says nothing can be more slighting. They call him, without concealment, the *Parvenu*. He sometimes dines with the ambassador, and goes away soon. On one of these occasions, as soon as he had left the table, the Secretary of Legation, before all the company, said, 'Well, *now the Parvenu is gone*, we will do so and so,' and this is so common Lord P—— says, that it challenged no sort of notice. Bernadotte affects the greatest consideration for us which does not help him with Russia. In particular, he has given mortal offence to the magnanimous by having ordered his minister in Spain, in all things to follow the politics of ours, and he accordingly identified himself with Sir W. A'Court. There are other sources of difference between us and Russia, of which we may possibly hear more, I mean the question of sending troops to Lisbon, which the Emperor, it seems, insists shall be done, but which we not only refuse ourselves, but oppose by anybody else. The discussion had been very unpleasant, and was not over a fortnight ago. Lord Prudhoe said Bloomfield was liked at Stockholm. Not so Fitzgerald, who was haughty and distant, thought the Swedes bores and half-bred; the ladies did not dress well enough to come between the wind and his nobility, and the hours were 'hideously' unfashionable, all which opinions he was by no means at pains to conceal."—Vol. ii. p. 133-4.

NOTICES OF BOOKS.

I.—*The History of Herodotus.* New English Version, by G. Rawlinson, &c., assisted by Sir H. Rawlinson and Sir J. G. Wilkinson. In 4 volumes. Volume III. Murray, 1859.

We continue our notice of this work of which, on its completion, we hope to give an account commensurate with its great merits. The third volume, which we now announce, contains Books 4, (Euterpe) 5, (Terpsichore) and 6, (Erato); and the 4th Book conducts us through the Scythian campaign of Darius, and the author's narrative of Scythian history, customs, &c. We are next carried into Lybia and Africa, and the histories of Cyrene and Barca are fully developed. This book is illustrated by three essays, (by the translator we presume,) the first on the Cymric and Celtic races, migrations, language, &c. the second, (on the Ethnography of the European Scythians,) disproves their supposed connection with the Mongols, and establishes their Indo-European character as a race distinct from Slaves, Celts, and Teutons, but a race now extinct. This Essay contains a list of all the Scythian words of which the meaning is certainly known, and a list also of those, (being names of gods, men, and places,) the meaning of which may be surmised. By a careful examination of these materials, the author appears to us to establish satisfactorily that the European Scythians of Herodotus were really members of the great Indo-European family, by the only sure test of their language, which out of a very small number of words presents no less than thirty to forty roots capable of identification with well-known Indo-European terms. To lovers of this species of inquiry [the investigation is full of interest. The third Essay relates to the Scythian geography of Herodotus, and contains a vindication of the authority of the Father of History against the adverse theory of Niebuhr, and we

think the vindication is complete. The 5th Book carries the reader on to the Persian conquests in northern Europe, and contains accounts of Thrace, Macedonia, &c. It then returns to Asia, with the stirring events at Miletus, Sardis, and elsewhere, ending in the Ionian revolt. That great revolution led to the connection of the eastern world with Sparta and Athens, the early histories of whose respective constitutions are illustrated by two Essays, which, by their examination of the conflicting theories of the great modern writers on these subjects, appear to us to bring out a very lucid statement of many matters on which it had been no easy task to reconcile the views of Therwall, Grote, Mure, and others, on numerous questions of political history. Those who study constitutional history cannot fail to find in these Essays abundant materials for thought and instruction. The 6th Book carries the story from the burning of Sardis to the great battle of Marathon, and the fate of Miltiades; and we need not say how stirring is the narrative of these events of world-wide fame. The story of this celebrated battle-field is most carefully examined and illustrated in an Essay which appears to us to establish the real relative numbers of the combatants, the causes of the delay in the attack, the absence of the Persian cavalry, and the marvellous results of the action, which is properly classed by Professor Creasy among the turning points in the history of the world. We think, in a new edition of his interesting "Great Battles," the Professor will do well to consider the light thrown on this question by our translator's Essay. The volume is illustrated by an Herodotean map of Scythia, and also by an excellent map of the Persian satrapies, which more properly belongs to the preceding volume. In addition to the maps, there are upwards of thirty illustrations by woodcuts and otherwise, of the author's text, and by these means, and the numerous valuable notes of the translator, and his very able assistants, the work has been rendered a real and substantial addition to our previous knowledge of the numerous and interesting topics to which the volume relates.

II.—*Spiritual Conferences*. By F. W. Faber, D.D., Priest of the Oratory of St. Philip Neri. London, Dublin, and Derby, Richardson and Son.

“We have received in due course this very valuable work; but regret to be obliged to postpone the notice of it which we had intended for this Number. So far as we can judge before a full perusal, it is well worthy of this illustrious author.

III.—*Winchester Pamphlets*. No. I. “Delusions and Superstitions of the Irish Catholics,” discussed in a series of Letters between the Rev. C. Bowen and the Rev. J. Collingridge. Dolman, 1858.

There cannot, we think, be any doubt of the expediency of tracing to its source, and exposing every palpable falsehood, which may be put forward by bigoted hatred to the prejudice of the Catholic faith and practices. A more glaring instance of monstrous fiction than that of Mr. Bowen at Winchester, in November 1857, and which gave occasion to the “Winchester Pamphlet,” can scarcely be imagined; but the falsehood of the allegations is, if possible, excelled by the cowardly and impudent avowal of the absence of even one tittle of evidence in support of any part of the case; and if anything can carry conviction to our erring neighbours of the real nature of nineteen-twentieths of what is alleged by popular preachers and orators to our prejudice, it will be such well-merited chastisement and exposure as Mr. Collingridge has inflicted on his Rev. correspondent. If No. II. of the “Winchester Pamphlets” be equal to its predecessor it will well deserve the approbation of every impartial reader.

IV.—*The Patrons of Erin*; or, some account of St. Patrick and St. Brigid. By W. G. Todd, D.D. Catholic Publishing Company. London, 1859.

Great things has Dr. Todd done for us, and still greater do we look for from one who brings to the work a zeal, intelligence, and knowledge, rarely to be met with, combined with peculiar fitness for the duty he is now engaged in, of promoting popular and devotional reading in an attractive form. The present work (which, as to getting up, size, and price, is most creditable to the Publishing Company,) appears to us to be a model of the sort of reading which is wanted for our less wealthy classes, and will prove as we hope the forerunner of a very long series.

V.—*Winchester Pamphlets*, No. 2. Catholic Publishing Company. London: Warren Winchester.

We expressed our hope of the continuance of this series, and we are not disappointed. No. 2 exposes the imposture of a person who called herself the Baroness de Camin, and who pretended to have been a novice in a nunnery at Winchester, from which her husband had enabled her to escape, and who is reported in the *Standard* (July 2, 1858) as "a young woman who bore every indication of having suffered the confinement of a nunnery." The exertions of the Reverend Mr. Collingridge compelled the editor of the "*Hampshire Chronicle*," who had circulated the story, to admit that it "was without the slightest foundation," and that the "Baroness" never was a "novice," but had been a "domestic servant." These exposures are calculated to open the eyes of the less prejudiced of our fellow countrymen, and are to be encouraged to the best of our ability. The Pamphlet No. 2, contains also two treatises, "*Luther and St. Paul*," and "*Church of England and the Te Deum*," and exhibits what the author very justly designates two manifest impostures; but for the particulars we must refer our readers to this useful and well-timed little work.

VI.—*Catholic Association for the Suppression of Drunkenness*. Under the protection of our Blessed Lady of the Immaculate Conception. London: Burns and Lambert, 1859.

This little work contains the rules of an admirable society, established under the sanction of the Lord Bishop of Newport, &c., on the Feast of the Immaculate Conception, in 1857, for the object of suppressing drunkenness and establishing a penny bank and a musical association. And there is the promise of an early publication of the "*Rules for the Funeral Society connected with the Association*." These objects must command the sympathy, and, we hope, will receive the active support of the wealthier portion of the Catholic body, and we will do our best to give circulation to its objects and wants.

VII.—*The Imitation of the Child Jesus*. Translated from the French, by an Irish Catholic Mother. Catholic Publishing Society. London, 1859.

This little work conveys most valuable instruction for children, in the form of dialogues between two children, which are of great simplicity, beauty, and clearness. The machinery is, that an elder boy, called "his good angel," instructs his junior in all the leading duties of our holy religion, which are carried step by step through the day, from awaking, rising, prayer, mass, meals, school, work, recreation, confession, retiring to rest and sleep; to which are added, discussions on the duties of obedience, &c., and a series of very beautiful instructions on "the Imitation of the Child Jesus," which are in like manner carried through the duties of the day. The work cannot fail to be of great service in the instruction of children.

VIII.—*A Lecture on the Siege of Londonderry, 1688-9*. By the Rev. Joseph M'Cormick, B.A., Curate of Regent Church. Wertheim and Co., Judd and Glass. London, 1859.

We presume this mass of insolent bigotry is forwarded to us with the intention of raising our bile and provoking us into controversy. But we shall content ourselves by observing that in our judgment a work of such manifest unfairness and ferocity is calculated to serve rather than injure our cause wherever it may fall into the hands of those who are not pledged to its war cry of "no surrender." We regret to see attached to it the name of the publishers of another little work of which we have had the pleasure to express our approval.

IX.—*The History and Antiquities of the Anglo-Saxon Church*. In two vols. London: Catholic Publishing Company, 1858.

This is a reprint of Dr. Lingard's immortal work, and that in a cheap and accessible form, and we hail its appearance with very great satisfaction, as evidence of the demand for information on the important subjects with which it deals;—information which cannot fail to remove prejudices and facilitate the return of our more enlightened erring brethren into the bosom of the Church. The reprint of a sterling work is in our judgment a more important service than the publication of a new but inferior one.

- X.—*Father Connell*. A Tale by the O'Hara Family. New Edition, 8vo. Dublin: O'Byrne and Co. 1858.

Our readers who recollect the impression produced by this true picture of the religious life of the Irish people, at its first appearance, will unite with us in welcoming warmly, this cheap and excellent reprint. It is now many years since we expressed our opinion on the merits of *Father Connell*. The phases through which our national literature has passed since that time have made us feel more strongly what we then wrote. Others of the O'Hara Tales excel it in variety of incident and interest of plot; but in this there is more real knowledge of the depth of the Irish character, and especially of its simple earnestness, and sincerity, the depth and fervour of its religious feelings, the tenderness of the domestic affections, even in the very rudest and most uncultivated; and the true nature of the relations which subsist between the people and their much calumniated clergy. Never have these been depicted with so much vigour and truth as in this remarkable story.

We congratulate all who are interested in the promotion of a truly national literature, representing the modest virtues, as well as the more salient characteristics of our people, on the republication of "*Father Connell*" in so cheap and attractive a form; and we augur well from the selection of this, as we believe, the first publication of the new firm from which it comes, for the future career of these enterprising publishers.

- XI.—*History of Frederick II. of Prussia, called Frederick the Great*. By Thomas Carlyle. In four volumes. Vols. I.-II. London, Chapman and Hall.

We can but record in our present Number the publication of these volumes, the first instalment of Mr. Carlyle's long-promised *History of Frederick the Great*. They can hardly be considered as more than an introduction, only carrying the history down to the death of Friedrich Wilhelm, Frederick's father, and predecessor on the throne of Prussia. But they exhibit all the well-known characteristics of the author, and all his peculiarities, both

of thought and manner. The subject is one which we have long desired an opportunity of examining; but we are reluctantly compelled to reserve till our next Publication the notice of Mr. Carlyle's volumes which we had prepared.

XII.—*Irish Melodies*, with Symphonies and Accompaniments. By Sir John Stevenson, Mus. Doc., and Characteristic Words, by Thomas Moore Esq. New Edition. Edited by J. W. Glover, Esq. Dublin: James Duffy.

The expiration of the copyright of the first and by far the most popular division of the *Irish Melodies* has called into the field a host of rival editors, professing to place within the reach of the entire musical public what has hitherto been accessible only to a favoured few. Of the several editions of this portion of the *Melodies* which have appeared, there is none which can be compared with that named above, for accuracy, convenience, elegance of execution, and tastefulness of arrangement. None of these new editions, it is unnecessary to say, contain the later *Melodies*, the copyright of which is still unexpired. But from whatever cause it has arisen, the later *Melodies*, although many of them are among the happiest emanations of the pen of Moore, have never attained, even in Ireland, that universal and enthusiastic popularity with which all the early numbers were received; and thus it happens that the first six numbers, which are comprised in Mr. Duffy's edition, contain, with hardly an exception, all those popular songs which have become household treasures in almost every Irish home.

Among Mr. Duffy's many services to the literature of our country, there is none which will be more gratefully acknowledged. It supplies all that was needed to make Moore what he always aspired to be, in the largest sense of the name, the Bard of Erin.

XIII.—*The Psalms, Book of Wisdom and Canticle of Canticles*, translated from the Latin Vulgate, diligently compared with the Hebrew and Greek, being a revised and corrected edition of the Douay Version, with Notes Critical and Explanatory, by Francis Patrick Kenrick, Archbishop of Baltimore. Baltimore: Lucas Brothers.

Archbishop Kenrick is making great progress in his important undertaking. The present portion of his revised Douay Version is dedicated to His Eminence Cardinal Wiseman, and well maintains the high character of the portion which has preceded it. This is not the time for any critical examination or remarks, but we can assure our readers that in the Archbishop's very valuable notes they will find an immense quantity of important and interesting illustration, in collecting which numerous and varied sources of information have been explored with very great industry and discretion.

XIV.—*Blind Amos and his Velvet Principles*. By Edwin Paxton Hood. London: Judd and Glass, 1859.

There is great merit in this little work, which contains "Proverbs and Parables for Young Folk," and which are conveyed through the doings and sayings of "Blind Amos," who, with his granddaughter Melly, goes about to do all the good in his power, by means of the "Velvet Principle," i.e., the use of soft words and kind actions, which turn away wrath. The stories are very well told, and there seems to be a complete absence of sectarian bigotry, though (as we collect) the author is the pastor of the "Oxford Road Chapel." We strongly recommend this work to our readers.

XV.—*Man and his Dwelling-Place; an Essay towards the Interpretation of Nature*. London: J. W. Parker and Son, 1859.

This work gives us very serious pain, because we cannot fail to perceive in its writer an anxious yearning after something spiritual, and yet, to our conception, every line of his book is a complete abnegation of every part of real religion. Every received idea of existence, Sin, Salvation, Heaven, is to be rooted out, and a new set of fundamental ideas is to be adopted and applied to human existence. We will not venture to deal with such a work in any other way than by exhorting our Catholic readers

to spare themselves the uneasiness to which we have exposed ourselves, at finding how awful may be the conclusions to which a pious mind may be driven when deprived of the guidance of infallible authority.

XVI.—*Christian Considerations ; or Devout Meditations for Every Day in the Year.* By Father Crasset, S.J. Translated from the French by Mrs. Dorsey. First American edition. New York : O'Shea, 1858.

From the preface we learn that of the pious author of this excellent work it is known only that he was a member of the great society, and published this work in 1683, nine years before his death. It had a large circulation in France and Germany, but so far as we are aware, is now made known to the American and English reader for the first time. The Meditations are eminently practical and suggestive, and are so short as to be within the reach of even the most busy, for the most part falling short of a page, and each of them is followed by "Words of Scripture," which are selected for enforcement of the subject of the day's meditation. The man of the world, who will abstract from his ordinary pursuits time enough to read through these short portions of spiritual food, and can acquire the habit of turning his thoughts from time to time, in the short intervals of business, to the subjects thus propounded, will find himself to be a man of God as well as a man of the world ; and in the course of his yearly passage through our author's volume, he will find that he has received instruction of the highest class for his guidance in every emergency and conflict of duty, in which he can possibly find himself in need of assistance and protection. The obligations of the Catholics of the united kingdom to those of America are rapidly increasing, but we believe that very few contributions will be found more valuable than that which we now earnestly recommend to all our readers, but especially to those who can spare only a short space for the great duty of meditation.

XVII.—*The Healing Art, the Right Hand of the Church.* By Therapeutes. Edinburgh : Sutherland and Knox, 1859.

It is to be regretted that a writer who can bring to this interesting subject a great amount of learning, and in many respects very accurate conceptions, should deface his

work with an incredible amount of anti-Catholic bigotry. In his second chapter he discusses the curative use of oil, and comments with great force on Mark vi., 12, 13, "The twelve went out and preached that men should repent, and they cast out many devils, and anointed with oil many that were sick, and healed them," and in this regard describes them as "the most complete exponents of the character, position, and purposes of their Master." It seems, therefore, strange that he should ignore the inspired directions of one of these very apostles on this very subject, and should bring himself (p. 82) to describe the sacrament of Extreme Unction as "a mean and incomprehensible rite," as "absurd and pitiful," although he proceeds to admit that it is "based upon views quite as consistent with divine truth as many other ideas on this subject which are cherished even in Protestant churches." In page 171 our author asserts that an almost universal prejudice prevails against any alliance of medicine with the priesthood, and he talks of "the evils and abuses which attended the discharge of it by priests and religious orders." After these specimens it seems strange that we should recommend the perusal of this work, and we can do so only to those who may be curious to look over a considerable accumulation of very interesting matter to which very few of us can otherwise command a ready access.

XVIII.—*A New English Grammar*. By M. D. Kavanagh, of University College, London. London: Catholic Publishing Company, 1859.

This little work is entitled in a considerable degree to the merit which it claims of simplicity combined with systematic arrangement. In addition to "Grammar," as usually dealt with, the author has chapters on "Derivation" and "Composition," which although by no means profound, or as regards the latter, very correct, according to our judgment, yet are well calculated to assist the young for whom it is intended. There is a large assortment of examples; and an accurate appreciation of the contents of this work would be found of service to a large portion of our so-called "educated" population.

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